The Hidden Costs of U.S. Counterinsurgency Strategy

by

Rebecca Salima Krisel
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Peru

Map from: James F. Rochlin, Vanguard Revolutionaries in Latin America: Peru, Colombia, Mexico (Lynne Rienner Publishers, 2002), 22.
Turkey

Kurdish Populated Areas

Pakistan

NWFP, the FATA and the Northern Areas

INTRODUCTION: THE COSTS OF COUNTERINSURGENCY ON DEMOCRACY AND THE RULE OF LAW

Although it is important that U.S. counterinsurgency policy is strongly focused on developing the most effective military strategy in order to defeat insurgency groups, little attention is concentrated on the costs of these counterinsurgency operations. More specifically, there is a lack of concern in U.S. foreign policy for the costs of counterinsurgency in terms of democracy and rule of law. It is precisely this relationship between counterinsurgency, democracy, and rule of law that I shall study in this thesis, and I would like to answer the following questions: What are the costs of counterinsurgency on democracy and a government’s ability to uphold the rule of law? And, how can U.S. counterinsurgency policy be improved so as to minimize these costs in Pakistan? In answering these questions, I shall consider the costs of counterinsurgency as a dependent variable, and democratic consolidation and rule of law as independent variables, and use this relationship to understand a way to minimize the costs of counterinsurgency strategy.1

1 If this relationship could be described through calculus, it would look like this f'(x,y)= 0; where f' is the cost of counterinsurgency (i.e. the derivative of f, the function of counterinsurgency), x is the democratic consolidation, y is rule of law. The equation equals zero so as to solve for the minimum costs of counterinsurgency.
Why is it important to address these costs of counterinsurgency strategy for U.S. foreign policy? One could argue that it is, in fact, not necessary for two main reasons: first, the U.S. is not fighting an insurgency domestically but rather in an occupied territory where it is helping the host government defeat an insurgency. Thus, the U.S. main purpose and goal is to assist this host government in defeating an insurgency group. The *U.S. Army/Marine Corps Field Manual* does not address the aftermath of an internal conflict, inferring that it is not one of our main military responsibilities. Second, because the *Field Manual* was written with Iraq and Afghanistan in mind, and neither of these countries were democracies pre-invasion, acknowledging the costs of counterinsurgency strategy on democracy and upholding the rule of law was not a pressing topic if new political institutions were to be developed post-war.

That being said, the U.S. should take into consideration these costs, if not for the well being of the host governments and their citizens post-insurgency war, then for the credibility of the United States *vis à vis* the international community. If we justify our wars in Iraq and Afghanistan along the lines of freedom and democracy, then our military *Field Manuals* should at least acknowledge, if not integrate, the fact that counterinsurgency policy has historically taken a toll on a government’s ability to maintain a stable democracy and has weakened a government’s practice of the rule of law.

More importantly, addressing the costs of counterinsurgency strategy is becoming ever more important as we increase the number of troops fighting in the Federally Administered Tribal Areas (FATA) alongside the Pakistani Army. Even
though the central and Federal government of Pakistan only nominally controls the northern tribal areas, and thus does not have executive power in the region, the tribal areas are still considered a part of Pakistan. The U.S. must realize the implications of fighting an insurgency war for the Pakistani government’s ability to maintain its democracy and uphold the rule of law post-insurgency war. This is important, not only for the well being of Pakistan as a country, but also for the general stability of the Afghanistan/ Pakistan/ India region.

Pakistan shares its borders with Afghanistan and India. If Pakistan becomes an authoritarian government, Afghanistan will feel threatened and will not be given a chance to build a healthy democracy because it might feel the need to protect itself through military power. Afghanistan may not have the financial resources to maintain a democracy while funding such a military endeavor and could resort to an authoritarian government. India will also feel threatened and increase its troops on its border with Pakistan. Although India may have the resources to increase its troops, she will most likely turn to the U.S. for greater financial and military support. Thus, maintaining stability in the region is in the United States’ best interest.

In addition, the war in the FATA region introduces new dimensions that must be addressed in U.S. counterinsurgency strategy: first, in Pakistan we cannot act as a benevolent occupier, or a temporary device until authority can be devolved to a (friendly) government. This is a very important point because, when fighting within Pakistani territory we must realize that the Pakistani government is in charge, and must abide by the Pakistani constitution. The distinction here is that, as opposed to Afghanistan where we are ‘helping’ the Afghans defeat the Taliban insurgency, in the
FATA we are being helped by the Pakistani army. This is not a territory we are
‘occupying,’ but rather a territory where we are temporarily invited to fight the
Taliban insurgency.

Second, we must realize that the social cleavages in the northern tribal areas
where the Taliban are fighting are not solely ideological, but also ethnic. The semi-
autonomous Federally Administered Tribal Areas are divided into seven “agencies”: Bajaur, Mohmand, Khyber, Orakzai, Kurram and North and South Waziristan. Since the start of the Afghanistan War, “members of the Taliban have advanced into leadership roles in parts of the Pakistani tribal lands, particularly the agencies of North and South Warizistan and Bajaur.” This rise of the Taliban is already upsetting the political balance in the tribal areas, and there are instances of tribal leaders being killed for questioning the Taliban’s expanding power and being closely linked to Islamabad. The war against the Taliban in the FATA is not solely one of religiously ideological persuasion, but is also deeply rooted in ethnic and tribal cleavages.

Third, if the Pakistani government is not able to reach a level of stability with respect to its domestic affairs including its growing number of militant groups, Pakistan could eventually become a Jihadist state with nuclear power. Although this is considerably unlikely at the moment, such a situation would present itself as the greatest threat to the West yet, and it is important to recognize this possibility. It is in our best interest to support the new and fragile democracy and help it gain greater stability by respecting its sovereignty in our counterinsurgency operations. Showing

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3 Ibid.
4 Ibid.
respect for Pakistani politics could increase approval rates for the relationship between Washington D.C. and Islamabad from the Pakistani people and will help the incumbent Pakistani government be perceived as legitimate. Moreover, it will alleviate some of the instability within Pakistan, and potentially avoid the threat of the emergence of a Jihadist state.

To address the costs of counterinsurgency strategy on democratic consolidation and rule of law, I look at two case studies: Peru and the war against the Sendero Luminoso, and Turkey and the war against the PKK. These countries are important because they were both fragile and unconsolidated democracies when they began fighting an insurgency group. The example of Peru shows the costs of fighting an ideologically driven insurgency whereas the example of Turkey shows the costs of fighting an ethnically driven insurgency. These examples are important in that they clearly show that counterinsurgency strategy cannot remain static, and that although the policies must be malleable in order to address the contingencies of insurgency war, the policies should also be well defined. The conclusions drawn from the costs of counterinsurgency on democratic consolidation and rule of law in both examples provide me with guidelines to assess the gaps in the U.S. Army/Marine Corps Field Manual in terms of the possible effects of counterinsurgency policies in Pakistan where the insurgency can be described as both ideological and ethno-nationalist.

**Definitions**

In order to fully understand what I mean by ‘minimizing the costs of counterinsurgency on democratic consolidation and rule of law,’ it is essential that I
define the following terms: insurgency, counterinsurgency, cost of counterinsurgency, democracy, democratic consolidation, rule of law, human rights and institutions. Before I begin my definitions, however, I would like to make it clear that I am not making a moral argument about democracy and human rights but rather a practical one. The three countries I am looking at are, at the very least, aspiring democracies. I am not choosing to focus on democracy as an imposition, but rather because it is the regime type chosen by Peru, Turkey and Pakistan. Whether or not democracy is the optimal form of government in order to minimize counterinsurgency costs is another question.

The *U.S. Army/Marine Corps Counterinsurgency Field Manual* defines insurgency as:

> An organized, protracted politico-military struggle designed to weaken the control and legitimacy of an established government, occupying power, or other political authority while increasing insurgent control.\(^5\)

This definition describes an insurgency group at its most general level, and I would like to elaborate on some nuances that the *Field Manual* definition does not address. Although fighting an insurgency war generally decreases the control and legitimacy of an established government, it is not always true that those are the main goals of an insurgency group. In my opinion, an insurgency group can be defined as: an organized rebellion group, unified by a common denominator, seeking to achieve their demands through military revolt against an established central government. An insurgency group can be loosely described as either a ‘revolutionary insurgency group’ where the common denominator is ideological or as an ‘ethno-nationalist

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insurgency group’ where the common denominator is ethnicity and a claim for self-
determination. These are broad categorization groups and, while religion can also be
considered as a common denominator, for the purpose of this study I will consider
religion as an ideology.

Counterinsurgency can be defined, at the most basic level, as political or
military action directed at suppressing an insurgency group. Counterinsurgency
strategy need not be solely forceful and violent, but can also come in the provision of
socio-economic support to the civilians in the emergency zones and through political
incentives. Moreover, “though insurgency and COIN (counterinsurgency) are two
sides of a phenomenon that has been called revolutionary war or internal war, they
are distinctly different types of operations.”\(^6\) Counterinsurgency strategy is not
designed as a symmetric military operation where two armies are fighting against one
another. The military operations are not planned as direct responses to insurgency
blows, but rather as asymmetric ways to diminish the base of the insurgency group.

By ‘the costs of counterinsurgency on democracy and the rule of law’ I simply
mean the effects of such policies on a country’s political institutions during and after
the war particularly with regard to democratic consolidation and the practice of the
rule of law. My concern with studying the costs of counterinsurgency is mainly
rooted in the idea of trust between civilians and their central government during and
post-war, and the ways in which military operations affect this trust that should be
inherent in a democracy. The democratic process at a general level relies on a vertical
accountability from the elected government officials to the citizens. When the trust

\(^6\) Ibid.
between the elected officials and civilians is breached and when the rule of law is not respected, it is difficult to regain a stable democracy. If the people cannot trust those they have elected, the government is no longer a representative of these citizens, and although this said government may follow a democratic process, it may not be considered a democracy in practice.

I am mainly basing my understanding of the term ‘democracy’ on Robert Dahl’s *On Democracy*. According to Dahl, while democracy is a process for making binding decisions, it does not necessitate a democratic process if the decisions can be reached through consensus. At a larger scale, however, a democratic process is necessary if “all members are to be considered as politically equal.” The idea of political equality is important for my study when thinking about the people living in the emergency zones in Peru and Turkey. In both cases, the emergency zones were military dictatorships and remained disconnected from the democratic process of the central government. Moreover, political equality is interesting to think about when studying ethnic tensions in Turkey where, although many Kurds did not speak Turkish, all political matters had to be discussed in the Turkish language. As a result, many Kurds were inadvertently excluded from the democratic process.

In order to ensure that the democratic process remains effective in a large-scale democracy, Dahl claims that the following six political institutions are necessary: 1) elected officials; 2) free, fair, and frequent elections; 3) freedom of expression; 4) alternative sources of information; 5) associational autonomy; and 6)

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8 Ibid.
inclusive citizenship. The combination of these institutions creates a polyarchal democracy. My study of democracy will be based on an analysis of the existence of these political institutions in both Peru and Turkey. These political institutions serve as a framework to draw clear and comparable conclusions on the costs of counterinsurgency.

When using the term ‘institutions,’ I mean the following:

Regularized patterns of interaction that are known, practiced, and regularly accepted (if not necessarily normatively approved) by social agents who expect to continue interacting under the rules and norms formally or informally embodied in those patterns.

Democratic institutions are simply a subset of this categorization whereby the institutions are formal organizations within the constitutional framework of a polyarchy. Democratic political institutions serve to mediate and aggregate between structural factors and the individuals and multiple interests and identities organized within a society. The intermediate level of these democratic political institutions allows for the organization of individuals, and giving some the opportunity of a voice in the political process while excluding others.

When assessing the level of democracy in my case studies on Peru and Turkey, I am looking at whether these countries are able to respect the democratic process under the umbrella of the political institutions of Dahl’s polyarchy. Analyzing this level of democracy will allow me to draw conclusions about the effects of counterinsurgency strategy on democratic consolidation. I am basing my

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9 Ibid., 85.
10 Ibid., 90.
12 Ibid.: 59.
understanding of the latter on Andreas Schedler’s “What is Democratic Consolidation?” which explains democratic consolidation as pertaining to the stability of the democratic regime as opposed to the stability of a specific government. It provides a framework to foresee the possible future of a democratic regime. According to Schedler, democracy can be consolidated negatively by preventing democratic breakdown and erosion, and positively by completing, deepening, and organizing democracy (Figure 1).

Figure 1 is a graphical portrayal of the classification of regime families from authoritarian to advanced democracy. An authoritarian regime is one that is not democratic, an electoral democracy is a semi-democratic regime, a liberal democracy is a polyarchy, and an advanced democracy is essentially a utopian democratic regime. Figure 1 illustrates the idea that a democracy can be consolidated negatively or positively. A regime is considered unstable when democracy is being consolidated negatively. This happens when a specific government is more focused on preventing democratic failure as opposed to striving to deepen its democracy. I acknowledge that this framework assumes a sort of teleological direction towards democracy; however, it also provides a clear

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framework with which to identify the stability of democracy as a regime in Peru and Turkey.

I base my analysis of the practice of the rule of law on what I believe to be the necessary processes and institutions in a democracy. There are two main criteria that form the basis of the rule of law: first, enforcement of the law, where the state has the monopoly on the use of physical force; and second, trust in those enforcing the law. In order to ensure that these criteria are respected in a democracy, the following political institutions should be in place: 1) separation of powers and horizontal accountability (system of checks and balances); 2) proportionality: the enforcement of the law within the separation of powers must be proportionally distributed; 3) transparency: a system of vertical accountability between those who enforce and those who trust the enforcement (this ties into freedom of speech), and 4) independent judiciary.\textsuperscript{14} The role of the judiciary, and specifically the role of civilian courts as opposed to military courts will be of great importance to my study. There should also be some form of constitutional review that falls into the role of the judiciary. Respecting the rule of law in a democracy is a means to avoid human rights abuses; this is true because a democratic constitution generally includes laws that protect human rights, or at least those that protect vital human rights.

It is important to note that it is possible to “have a legal system without having rule of law.”\textsuperscript{15} There is a distinction between ‘rule by law’ and ‘rule of law’ where the former is instrumental to the state in order to “control others without imposing

\textsuperscript{14} These conclusions are inspired by my conversation with professor Finn, but do not necessarily represent his views.
\textsuperscript{15} Randall Peerenboom, \textit{China's Long March toward Rule of Law} (Cambridge University Press, 2002), 64.
meaningful restraints on the state itself,” whereas the latter requires that law
meaningfully restrict the state and its rulers.\(^\text{16}\) This is particularly important to think
about when understanding the Kemalist ideology in Turkey. Because the Kemalist
state was considered above the people, and protecting the integrity and security of the
state was of utmost importance, Turkey could be considered a country ruled by law.
Moreover, while the violent counterinsurgency measures taken against the PKK were
justified by the legal system, this does not mean that Turkey had rule of law.

I am basing my understanding of horizontal accountability on O’Donnell’s
essay “Horizontal Accountability in New Democracies.” According to Guillermo
O’Donnell, horizontal accountability:

> Depends on the existence of state agencies that are legally empowered—and
> factually willing and able—to take actions ranging from routine
> oversight to criminal sanctions or impeachment in relation to possibly
> unlawful actions or omissions by other agents or agencies of the state.\(^\text{17}\)

Horizontal accountability calls for the respect of the rule of law through a system of
checks and balances between the different institutions within the government. A state
could very well have a high level of vertical accountability through a democratic
process (from the government to the people), but have a poor level of horizontal
accountability. Thus, a democratic government is not necessarily one that upholds the
rule of law. It is essential to have a system of horizontal accountability to avoid any
elected official to act beyond the scope of his position determined by law.

There is also a distinction between democracy and human rights. According to
Donnelly, “democracy is a fundamentally collectivist political theory that answers

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\(^{16}\) Ibid.
\(^{17}\) Guillermo O’Donnell, "Horizontal Accountability in New Democracies," *Journal of
who should rule” whereas “human rights rest on an individualistic political theory that addresses how governments should rule.”\textsuperscript{18} Therefore, while democracy emphasizes the need for collective action to draft a constitution with rights and duties that a collective shares within a society, human rights stress the importance of the rights of each individual and are a hurdle to democracy because “human rights are fundamentally nonmajoritarian.”\textsuperscript{19} This distinction is important for my study in two ways: 1) in my study of the costs of counterinsurgency, I am considering democracy and human rights as two separate variables; and 2) although I am specifically choosing to study democracy and human rights as independent variables, I do not want my study to be seen as advocating the idea that a country must be democratic in order to protect human rights.

I should also address the issue of human rights and nationalism to further understand the issue in Turkey and Pakistan. Donnelly claims that:

\begin{quote}
Human rights issues are inherently problematic in a world structured around sovereign states. Questions of self-determination are the most problematic of all because they are about defining the very units that are entitled to participate in international relations.\textsuperscript{20}
\end{quote}

Thus, when addressing the costs of counterinsurgency policy on human rights abuses in Turkey and Pakistan, it is important to keep in mind self-determination and nationalism with respect to human rights and democracy. Nationalism in general presents itself as a threat to human rights, especially “under conditions of economic scarcity, where an expanding supply of goods and services cannot be used to help defuse intergroup rivalries, there is a relatively high probability that group

\textsuperscript{19} Ibid., 155.
\textsuperscript{20} Ibid., 147.
competition will lead to ethnic conflict, sometimes even violence.”

Although separatist demands for self-determination should be taken seriously even if the dominant nationalities are not oppressive, there is a dilemma in resolving these ethnic claims because it is difficult to understand whose rights and interests are directly at stake.

The study of human rights abuses in terms of the costs of counterinsurgency is important when dealing with the trust between civilians and their government. Human rights violations directly affect the relationship of vertical accountability between the state and the people. In addition, the abuses of human rights can have long lasting effects on the population of a country, and these may not manifest themselves until the insurgency war is over. The abuse of fundamental human rights during an insurgency war creates a divide between civilians and their government, and increases the difficulties for a country to increase the stability of its political institutions, and thus consolidate democracy.

**CHAPERS**

The first chapter is an analysis of political theories pertaining to emergency law and the proper form of action a constitutional democratic government can theoretically take when faced with an insurgency. First, I address Rossiter’s idea of ‘constitutional dictatorship’, and then I analyze alternatives to his theory. Second, I look at the relationship between national security and human rights, and conclude that human rights should be considered as the backbone of national security. Third, I

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21 Ibid.
22 Ibid.
provide some of my own analysis as to how fragile and new or partial democracies can effectively pursue counterinsurgency while minimizing the costs on democracy and the rule of law. Finally, I provide an analytical critique of the holes within the counterinsurgency strategy prescribed by the *U.S. Army/Marine Corps Counterinsurgency Field Manual.*

The second chapter is a study of Peru’s costs of counterinsurgency on its democratic consolidation and ability to uphold the rule of law when the government was fighting against the *Sendero Luminoso.* In this chapter, I first provide some historical and contextual background on the rise of the *Sendero Luminoso,* and its ideology. Then I show that, although Peru was able to maintain a relatively good standard of democracy while fighting the guerrilla group, there was nonetheless a lack of accountability between the military and the central government, leading to human rights abuses. Moreover, at the tail end of the war, Peru became a delegative democracy under Fujimori. Peru serves as an example of a new democracy confronted with an ideologically driven insurgency, and where the costs of counterinsurgency were visible in the government’s inability to maintain democratic consolidation and uphold the rule of law.

The third chapter is a study of Turkey’s costs of counterinsurgency on its democratic consolidation and ability to uphold the rule of law when the government was fighting against the PKK. In this chapter, I will also provide historical and contextual background of the PKK. Turkey is an interesting example where the government was able to defeat the insurgency while making little-to-no effort at respecting democratic ideals and did not refrain from abusing human rights. The
Turkish government, however, paid the price of its actions in the end through international sanctions for human rights abuses, and being rejected as a member of the European Union.

The fourth chapter is divided into two parts and will serve as the answer to the first question in this introduction: ‘What are the costs of counterinsurgency on democracy and a government’s ability to uphold the rule of law?’ First, I compare the experiences of Peru and Turkey, and draw conclusions about ways to minimize the costs of counterinsurgency in terms of democracy and the rule of law; and second, I provide an overview of the instabilities in the new and fragile Pakistani democracy, and then I apply the lessons drawn from my case studies to speculate on the potential costs of counterinsurgency on democracy and the rule of law in Pakistan.

My conclusions will return to the theories I analyzed in my first chapter, and will answer the second question in this introduction: ‘How can U.S. counterinsurgency policy be improved so as to minimize these costs in Pakistan?’ To answer the question, I refer back to the criticism of the *U.S. Army/Marine Corps Counterinsurgency Field Manual* I provide in Chapter 1, and show how these holes in our *Field Manual* could affect Pakistan’s democracy and rule of law, and I provide some ideas for reform. I ultimately conclude that the United States should respect Pakistan’s domestic interests and find compromises with our own interests.
Chapter 1: A Theoretical Approach to Counterinsurgency

“However, none but the greatest dangers can counterbalance that of changing the public orders, and the sacred power of the laws should never be arrested save when the existence of the country is at stake.” (Rousseau, Social Contract, IV, 6)

This chapter serves as an analysis of theories of counterinsurgency and emergency law. Although the field remains limited in terms of addressing the costs of counterinsurgency on democracy and the rule of law, there is a great deal of theoretical work on the proper legal form of action a constitutional democracy should take when faced with an internal conflict. The theorists addressed in this chapter emphasize the importance of following the rule of law, just as Rousseau claims in the quote above: “the power of the laws should never be arrested.” Although an increase in the centralization of the executive powers restricted by the constitution appears to be the most effective form of government in minimizing the costs of counterinsurgency I argue that, in new or partial democracies, separation of powers should be strongly emphasized when doing so provides a stronger foundation for post-conflict consolidation of democratic institutions.

In this chapter, I will first address broader theories of emergency law and counterinsurgency policies for constitutional democracies. I am using Rossiter’s
theory of constitutional dictatorship as the point of departure, and then address alternative ideas that complement constitutional dictatorship. I then move on to provide some of my own analysis, ideas, and theories as to how fragile, new, or partial democracies can effectively pursue counterinsurgency strategies while minimizing the costs on democracy and the rule of law. Finally, I assess the provisions of democracy and the rule of law in the *U.S. Army/Marine Corps Counterinsurgency Field Manual*. This *Manual* is important for understanding the U.S. official theory and strategy of counterinsurgency, and the effects this may have when fighting in Pakistan (which will be addressed in Chapter 4).

**Theoretical Relationship of Insurgency and Counterinsurgency**

In theory, counterinsurgency is a military strategy designed to oppose the activities of an insurgency group. More specifically, state counterinsurgency measures, in theory and practice, “serve alternatively to undermine and reinforce state political legitimacy.”¹ Counterinsurgency is thus a response to the threat of insurgency and the latter tends to undermine the government’s ability to uphold the “protections afforded to the individual within the liberal, democratic state.”² As a result, the main goal of counterinsurgency policies is to protect the right to life and property as well as basic freedoms.

Counterinsurgency develops into a means for the state to claim its legitimacy as sovereign of a territory, and show that it will not tolerate a challenge based on

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² Ibid.
violent means. This brings into question whether the means justify the ends. It is arguable that the violent practice of counterinsurgency strategies, and the creation of state terror, may undermine the end of claiming legitimacy. By responding to terrorist violence with similar tactics, a state is not claiming its legitimacy but rather is just mimicking the terrorists (which embody illegitimacy). This leads me into my discussion of the interactions between counterinsurgency, democracy, and rule of law. I would like to identify, in theory, the optimal balance between the three variables in order to minimize the costs of counterinsurgency.

**Constitutional Dictatorship**

To begin my discussion of the relationship between counterinsurgency, democracy and the rule of law, I would like to first address Rossiter’s idea of ‘constitutional dictatorship’ which is “the general descriptive term for the whole gamut of emergency powers and procedures in periodical use in all constitutional countries.” In simple terms, a constitutional dictatorship describes a situation where, in a liberal constitutional democracy faced with an emergency, there is a centralization of the powers, while still abiding by the constitution. Rossiter believes that a liberal democratic state can become more authoritarian under an emergency of national security while still maintaining the liberties of the people it has been instituted to defend.

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3 Ibid., 24.
5 Ibid., 3.
The principle of constitutional dictatorship is founded on three fundamental facts: first, a constitutional democracy is designed to function primarily under normal, peaceful conditions and is typically not equipped to deal with a great national crisis; second, when faced with a crisis, a constitutional democracy must change to whatever degree necessary in order to prevail over the crisis, and still manage to restore normal conditions; and third, the role and purpose of the constitutional dictatorship is the “preservation of the independence of the state, the maintenance of the existing constitutional order, and the defense of the political and social liberties of the people.”

The dictatorship must still be bound by the interest of the people, and uphold the liberties it was elected to defend. Its purpose is “complete restoration of the status quo ante bellum,” and must remain temporary and be self-destructive.

It is important to note, however, that centralizing the powers of the executive could in itself be considered unconstitutional. For example, in the chapter on emergency law in the Constitution of the Republic of Peru, the executive can delegate power to the Armed Forces under a state of emergency. The constitution, however, does not allow the powers to be centralized into the hands of the executive in the case of an emergency. In the Constitution of the Republic of Turkey, “during the period of martial law, the Council of Ministers meeting under the chairmanship of the President of the Republic may issue decrees having the force of law on matters necessitated by the state of martial law.” Therefore, under martial law in Turkey, the President of the Republic has the right to make executive decisions without Parliamentary consent.

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6 Ibid., 5-6.
7 Ibid., 7-8.
8 Constitution of the Republic of Peru, Chapter VII, Article 137.
9 Constitution of the Republic of Turkey, Part III, Section 3, Article 122.
Finally, the Constitution of the Islamic Republic of Pakistan provides that under a state of emergency “the executive authority of the Federation shall extend to the giving of directions to a Province as to the manner in which the executive authority of the Province is to be exercised.” Therefore, under emergency law in Pakistan, the separation of powers of the executive amongst the Provinces of the Federation can become centralized into the hand of the executive authority of the Federation.

The purpose of quoting these articles from the Peruvian, Turkish and Pakistani constitutions is to show that, although Rossiter may, in theory, be rightfully prescribing a centralization of executive powers under an emergency; in practice, however, centralizing the executive powers may not be allowed by a constitution. In fact, following Rossiter’s idea of constitutional dictatorship may be unconstitutional.

Rossiter acknowledges the dangers of a constitutional dictatorship and he claims that:

No democracy ever went through a period of thoroughgoing constitutional dictatorship without some permanent and unfavorable alteration in its government scheme, and in more than one instance an institution of constitutional dictatorship has been turned against the order it was established to defend.11

This is particularly important to keep in mind, especially when I address the costs of counterinsurgency in Peru. The Fujimori government, in a sense, was a constitutional dictatorship, which in the end changed the structure of the democratic institutions and resembled more a (unconstitutional) dictatorship than a democracy. Thus, instituting a constitutional dictatorship in a moment of great national crisis can be destructive for


the democratic institutions if these are not strong enough to handle the theoretically temporary centralization of powers. As long as the executive branch is “empowered to take strong action without an excess of deliberation and compromise,” then centralizing the powers into the hands of the executive is the most effective way to overcome an emergency.\textsuperscript{12} Another danger to democracy is found in the acknowledgement that democratic institutions “don’t have the virility to protect the state from the dangers of war, rebellion, or economic collapse.”\textsuperscript{13}

In times of peace the separation of powers in a liberal democracy serves as a means for checks and balances, or horizontal accountability, to ensure that there is no arbitrary governmental action. Conversely, in times of crisis the separation of powers “may form an insurmountable barrier to the decisive emergency action on behalf of the state and its independent existence.”\textsuperscript{14} It appears as though Rossiter believes that the executive, in a crisis, should have more freedom in instituting arbitrary governmental action; however, this must be within the framework of the constitution.

The following are the eleven criteria Rossiter deems necessary for constitutional dictatorship: 1) a constitutional dictatorship should only come into being if it is indispensable to the preservation of the state and its constitutional order; 2) the individual(s) who will constitute the dictator cannot be self-appointed; 3) provisions for the termination of the constitutional dictatorship must be made at the time of initiation; 4) the use of emergency powers must be legitimate; 5) the degree of centralization of executive powers should not exceed more than is absolutely needed

\textsuperscript{12} Ibid., 288. \\
\textsuperscript{13} Ibid., 296. \\
\textsuperscript{14} Ibid., 289.
to overcome the crisis; 6) the measures adopted under a constitutional dictatorship must be limited by the need to restore normal conditions; 7) “the dictatorship should be carried on by persons representative of every part of the citizenry interested in the defense of the existing constitutional order”; 8) the government should assume ultimate responsibility for all actions occurring under the constitutional dictatorship; 9) the decision to terminate the constitutional dictatorship should not be in the hands of the individual(s) who constitute the dictator; 10) the constitutional dictatorship can’t still be in place after the national crisis; and 11) “the termination of the crisis must be followed by as complete a return as possible to the political and governmental conditions existing prior to the initiation of the constitutional dictatorship.”

As observed earlier, Rossiter’s theory of constitutional dictatorship can only work in practice if the existing democratic institutions are strong and stable. This was not the case for Peru and Turkey, and it is not the case for Pakistan. The purpose of addressing Rossiter’s theory is to show that there will inevitably be a cost to democracy and the rule of law during an internal conflict with an insurgency group, and I believe Rossiter provides the theoretical requirements to minimize these costs. I query, however, in a situation where the democratic institutions of a state are weak and unstable, whether advocating for greater separation of powers would provide a greater chance of maintaining constitutional order in the long run. This is mainly

\[15\] Ibid., 298-306.
because the separation of powers is instrumental to the values of rule of law.\textsuperscript{16} It is true, however, that when governments are faced with an internal conflict “the legislature’s and the judiciary’s ability to offset the executive is severely diminished.”\textsuperscript{17}

Maintaining an independent judiciary is, in my opinion, crucial to maintaining constitutional order in times of emergency. In fact, Ramraj argues that it is essential to “vest policy-making power in a well informed executive that is fully accountable to the courts (or at the very least, a specialized, independent tribunal), whose decisions are in turn subject to public scrutiny and debate.”\textsuperscript{18} This is mainly because judicial review provides a space for careful consideration of risks, where the “limitations on liberty are given their due and where the effectiveness of [counterinsurgency] policies can be assessed against its impact on fundamental freedom.”\textsuperscript{19} Thus, having an independent judiciary creates an objective player in the system of checks and balances of the constitutional government. Specifically, an independent judiciary can serve as a guardian to the protection of human rights, and ensure that the executive is not making decisions that could impede on the enjoyment of fundamental human rights.

\textsuperscript{17} Laura K. Donohue, \textit{The Cost of Counterterrorism: Power, Politics, and Liberty} (Cambridge ; New York: Cambridge University Press, 2008), 11.
\textsuperscript{19} Ibid., 121.
According to Rawls, human rights “restrict the justifying reasons for war and its conduct, and they specify limits to a regime’s internal autonomy.”\(^{20}\) Thus, they serve as a set of ‘urgent rights’ that should be complementary to the constitution.\(^{21}\) Human rights can be divided into two sub-categories: fundamental and secondary human rights. Fundamental human rights “are those that are basic to the preservation of life itself. Without these rights, all other rights are meaningless.”\(^{22}\) Secondary human rights, on the other hand, are mainly civil liberties.\(^{23}\) According to Lindfield, “under international law, a country may suspend all but the most fundamental human rights and civil liberties guarantees in times of war or public emergency, as long as the restrictions are proportionate to the danger facing the country.”\(^{24}\)

In fact, the European Convention on Human Rights claims that “In times of war or other public emergency [that] threaten[s] the life of the nation,” the nation “may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation.”\(^{25}\) Moreover, under the International Covenant on Civil and Political Rights, a country may derogate most human rights guarantees “in time of public emergency ... [and] to the extent strictly required by the exigencies of the situation.”\(^{26}\) Finally, the American Convention on

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\(^{21}\) Ibid.
\(^{23}\) Ibid., 276.
\(^{24}\) Ibid.
Human Rights (San José Pact), allows for derogations from human rights treaties “in time of war, public danger, or other emergency that threatens the independence or security of a State Party,” but only “to the extent and for the period of time strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law and do not involve discrimination on the ground of race, color, sex, language, religion, or social origin.”  

It is clear that many international human rights regimes allow for the restriction of civil liberties in times of crisis. In such a situation where certain civil liberties can be restricted under the threat of an emergency, I believe it is important for the judicial (or a special court) to remain independent in order to ensure that all people are still considered and treated equally before the law. In addition, an independent judiciary can maintain its role in constitutional review, and serve as a check to the powers of the executive in ensuring that it is abiding by the constitution, and is respecting human rights. This leads me to my discussion of the relationship between national security and human rights.

**National Security, the Rule of Law, and Human Rights**

Theoretically, counterinsurgency measures claim to have a moral foundation on the idea that they preserve the due process of law, whereas the insurgency is attempting to breach the law. Government policies for counterinsurgency are then presented as being created to uphold the laws “necessary for public protection and as

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conforming to legal processes insofar as this is actually compatible with preventing [insurgency].”

According to Gilbert, in theory “there is no moral distinction between the actions of terrorists in seeking to gain power and those of the agents of the state in seeking to retain it.” In practice, “just as there is commonly no alternative to a resort to violence in pursuit of terrorist’s aims, so there is usually no alternative to it in the state’s maintenance of power.”

Gilbert brings up the interesting point that when governments often choose to counter guerrilla groups with the same violence used by the group itself they illegitimate themselves in their ability to protect its citizens through the democratic processes. Moreover, it leads to state terror, which is just as much a threat to national security as actions taken by a terrorist group.

Even in liberal democracies, the perception of national security can easily obliterate citizen support for international law and democratic ideals, such as the rule of law. In fact, human rights tend to be “the first casualty of unconventional war.”

In general, political leaders and military institutions claim the right to establish national interests under the threat of terror, and thus undermine democracy and its system of checks and balances. This, in turn, creates a politics of fear and terrorism that weaken democracy where governments institute politics of fear without the

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29 Ibid., 127.
30 Ibid., 10.
32 Ibid.
consent of its citizens.\textsuperscript{33} It should be imperative to find a way to incorporate the value of human rights into counterinsurgency strategy. As Brysk posits: “if we can rethink national security so it is not a fixed defense of borders by any means necessary, but an evolving mode of protection for citizens from both external and institutional violence, human rights become neither a trade-off nor a luxury. Rather, they constitute an integral part of a sustainable defense of the citizenry.”\textsuperscript{34}

National security requires the human security of all the individuals in the state. Human security is protected by the respect for human rights and from this it follows that the aggregate of all the human security in a territory, or the global human security within a territory, would require the respect of global human rights.\textsuperscript{35} As a result, human rights are the necessary basis for a “legitimate response to [insurgency].”\textsuperscript{36}

There are two main connections between human rights and security: first, the respect for fundamental human rights of civilians such as the right to life and shelter is imperative. For example, protecting the fundamental human rights of Internally Displaced Persons (IDPs) during a crisis can provide relative security and stability for these people, and ensure trust between the IDPs and their government in the long run. Second, the respect for secondary human rights such as freedom of expression can help guide government policy making in a democracy so as to maintain constitutional legitimacy. However, it is understandable that in a time of crisis some of these civil liberties should be restricted. In the long run, the respect for human rights will

\begin{footnotesize}
\textsuperscript{33} Ibid.
\textsuperscript{34} Ibid., 2.
\textsuperscript{35} Ibid., 13.
\textsuperscript{36} Ibid., 177.
\end{footnotesize}
provide a stronger basis for informed and proportional policy making, democratic legitimacy, social cohesion, and international cooperation. This entails strong vertical and horizontal accountability for the executive powers.

**MINIMIZING THE COSTS OF COUNTERINSURGENCY ON DEMOCRACY AND THE RULE OF LAW**

From the above theoretical analysis, it is clear that there is a tension between the degree of centrality of executive powers and levels of horizontal accountability amidst the political institutions. This is illustrated in figure 2, where the degree of centralization of powers on the abscissa axis, and the degree of horizontal accountability on the ordinate axis. The graph shows four main options: 1) the ideal situation: high horizontal accountability with decentralized powers; 2) low horizontal accountability with decentralized powers; 3) the worst situation: low horizontal accountability with centralized powers; and 4) a high horizontal accountability with centralized powers.

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37 Ibid, 178.
Figure 2: Trade-Off Between Centralization of Executive Powers and Horizontal Accountability

Quadrant 1: Optimal Situation
- Centralized Executive Powers
- High Level of Horizontal Accountability

Quadrant 2: Decentralized Executive Powers with Low Level of Vertical Accountability

Quadrant 3: Worst Situation
- Centralized Executive Powers
- Low Level of Horizontal Accountability

Quadrant 4: Decentralized Executive Powers with High Level of Vertical Accountability

Disclaimer: in defining the quadrants in this figure, I am assuming that each title is a generalized description of the existing trade-off between the centralization of executive powers and horizontal accountability. In practice, these categories may not be as rigid for each government and would be represented by a point located by a set of coordinates.
It is obvious that option one is least likely to happen, and that option three is most likely the one all constitutional democratic governments attempt to avoid. This leaves me with options 2 and 4, and thus the debate about efficiency in minimizing the costs of counterinsurgency on democracy and the rule of law, becomes a question of whether a governmental system with low horizontal accountability and with decentralized executive powers is more effective at minimizing counterinsurgency costs or, conversely, whether a system of high horizontal accountability and centralized executive powers more effective. It seems arguable that, especially in a state of emergency, horizontal accountability trumps the degree of centralization of powers and a constitutional dictatorship would prevail. In addition, a government where the institutions are accountable to one another is more likely to protect human rights, which should be the backbone of national security. Constitutional dictatorship, however, assumes an ideal practice of the rule of law, and as soon as there is a breach of the constitution, then the only thing left is dictatorship. Therefore, although it would most likely be the most effective at minimizing counterinsurgency costs, constitutional dictatorship also imposes a larger risk for democratic breakdown.

Moreover, a government is more likely to respect the system of horizontal accountability if the executive powers are decentralized. As I stated above, constitutional dictatorship necessitates strong and stable democratic institution to be properly carried out. In the case of Peru and Turkey, the institutions were too weak to really take the risk of instituting a constitutional dictatorship. In addition, as I explained earlier, constitutional dictatorship assumes that the democracy in place is liberal, which was not the case for either Peru or Turkey, and is not the case for
present day Pakistan. There is clearly a necessary trade-off between the degrees of
centralization of powers and horizontal accountability and in the case of new and
partial democracies I would argue that governments should maintain a decentralized
system for the well being and endurance of the democratic regime.

Figure 3 illustrates a basic cost-benefit analysis of the cost of
counterinsurgency strategy on democracy and the rule of law. Through this cost-
benefit analysis I am able to identify, in theory, the optimal point where the marginal
costs of counterinsurgency on democracy and the rule of law are equal to the
marginal benefits of these costs. This model assumes that there will necessarily be
costs incurred on democracy and the rule of law during an internal conflict. It seems
intuitive that the limits of the costs are bounds by their benefits. In this analysis, I am
only taking into consideration the costs incurred by the government, and am not
considering those caused by the insurgency.
Figure 3: Cost-Benefit Analysis of the Costs Counterinsurgency on Democracy and the Rule of Law

Costs of Counterinsurgency on Democracy and the Rule of Law

Counterinsurgency Operations that Undermine Democracy and the Rule of Law

Marginal Costs of COIN on Democracy and the Rule of Law

Marginal Benefits of COIN on Democracy and the Rule of Law

Optimal Point of Restriction on Costs

Disclaimer: this figure assumes that counterinsurgency will necessarily bear some costs on democracy and the rule of law. For this reason, the graphs do not cross the x-axis.
CRITICISM OF THE *U.S. ARMY/MARINE CORPS COUNTERINSURGENCY FIELD MANUAL*

The *U.S. Army/Marine Corps Counterinsurgency Field Manual* was published in December 2006 and represents the cumulative learning process of the military during the counterinsurgency operations in Iraq.\(^{38}\) It is the first official counterinsurgency manual since the 1980s, and presents some realistic assessments of counterinsurgency.\(^ {39}\) After having done some pretty extensive research on counterinsurgency strategy in Peru and Turkey, I can look at the *Manual* with a different perspective than the layman reader. Although the *Manual* sets out realistic counterinsurgency operations the road to victory is idealized. The *Manual* is particularly difficult to analyze and criticize because, at first glance, there is nothing incorrect. It describes the most perfect way to defeat an insurgency group. However, the perfection of the *Manual* might actually be its greatest imperfection. It does not leave much room for contingencies, and the latter are key elements of fighting a guerrilla war.

Although democracy is fully sidestepped in the *Manual*, there is nonetheless mention of the legal considerations that must be taken into account while fighting an insurgency. The Appendix D on the Legal considerations claims that: “law and policy govern the actions of the U.S. forces in all military operations, including counterinsurgency.”\(^{40}\) In this appendix, there are three points that I believe to be essential for my study. First, it addresses the legal constraints when an insurgency

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\(^{39}\) Ibid.

\(^{40}\) Sewall et al., *The U.S. Army/Marine Corps Counterinsurgency Field Manual*, 347.
occurs during occupation. In such a situation, the laws of war still governs, and although “occupation is not a transfer of sovereignty,” the occupying power still has the authority and responsibility to “restore and maintain public order and safety.”

The most prominent source of law during occupation is from the Geneva Convention Relative to the Protection of Civilian Persons in Time of War. Moreover, “the occupying power must respect, as much as possible, the laws in force in the host nation.”

Second, it addresses the fact that insurgents cannot be prosecuted in international courts. Insurgents must be considered as criminals “bearing arms against the government.” Thus, insurgents can be prosecuted legally under national courts, as long as they are granted the minimum protections in Common Article 3 of the Geneva Conventions. Although both the counterinsurgents and insurgents are subject to the laws of war while in combat, the prosecution of the insurgents must remain at a national level by an independent judiciary (can be military or civilian courts).

And third, the Manual claims that: “establishing the rule of law is a key goal and end state in COIN.” This end state is made possible through extensive coordination between the “instruments of U.S. power, the host nation, and multinational partners.” Although it is important to recognize the establishment of the rule of law as the main goal of U.S. counterinsurgency strategy, often times there

41 Ibid., 352.
42 Ibid.
43 Ibid., 353.
44 Ibid.
45 Ibid., 360.
46 Ibid.
is a need for a transitional law before the host nation can be considered stable. Thus, while establishing the rule of law, the U.S. must be aware of its fragility, and recognize that this law might be short-lived.

This leads to the primary flaw of the *Manual*, its failure to consider the costs of such operations, and the regime stability issues that arise in the aftermath of the war. It is precisely the omission of the costs of the operations that led me to my thesis topic. I believe the U.S. army, as an occupational force, should bear in mind the aftermath of such counterinsurgency operations for the host nation while fighting an insurgency abroad. In fact, David Ucko expressed: “The U.S. military has-in its doctrine, education, training, and more broadly, its culture-prioritized the destruction of military targets far above the different means of creating or consolidating a new political order.”

**Criticism**

First, the *Manual* is mainly derived from classic counterinsurgency theories from the 1960s drawing from experiences such as France in Algeria, Britain in Malaysia, and the U.S. in Vietnam. It does not pay much attention to more recent revolutionary conflicts or theories. Although this makes for a weaker *Manual*, it also makes sense for the U.S. military to focus on situations where a foreign power is aiding a host nation to fight an insurgency war. However, this does not exclude the fact that the U.S. could learn from such places such as Peru and its fight against the *Sendero Luminoso* in the 1980s or Turkey and its war against the PKK in the 1990s.

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Both of these countries were new or partial democracies that were able to defeat an insurgency. Surely, these democratic countries can serve as examples for successful and unsuccessful counterinsurgency strategies. The situations, however, remain different in the sense that Peru and Turkey were fighting insurgencies on their own, whereas the U.S. will always (most likely) be in a situation of helping a host country fight an internal war. In fact, the Manual can be characterized, as Kalyvas said, “a guide to ‘benevolent occupation,’ benevolent in the sense that occupation is perceived as a temporary device until authority can be devolved to a (friendly) government.”

The Manual also adopts a constructivist view of identities as being malleable. It simply assumes that human societies are divided by weak cleavages based upon either a support for the government or the insurgency or being uncommitted to either. Hence, the Manual views society as being divided along ideational lines, as opposed to identities. The policies in the manual are thus constructivist in presuming identities and behaviors can be influenced and changed. It completely undermines the possibility of identities being strongly rooted in ethnic differences or religious beliefs. These are not easily malleable and in fact are so ingrained in a person that they are unfeasibly changeable. In addition, in an age of nationalism, the Manual does not acknowledge that foreign occupation is not typically embraced.

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49 Ibid.
50 Ibid.
51 Ibid.
Moreover, the *Manual* misconceives of the battlegrounds of insurgency leading to false conclusions on the methods and objectives of intervention.\(^{52}\) Because the *Manual* adopts the people’s war model, “it misperceives the insurgent battlegrounds as places where the population interacts directly with either governments or insurgents.”\(^{53}\) In this model, if you dissolve the insurgency the population will necessarily side with the central government. This assumption does not take into consideration that communities do not necessarily have direct contact with those in power: many traditional societies are organized around different layers of local and regional networks, and the interaction between the population and the incumbents and insurgents is often interceded by local and regional rulers.\(^{54}\)

The *Manual* also makes assumptions on the nature of insurgency, and its reasons for rebellion. It claims that:

> In almost every case, counterinsurgents face a populace containing an active minority supporting the government and an equally small militant faction opposing it. Success requires government to be accepted as legitimate by most of that uncommitted middle.\(^{55}\)

The *Manual* presupposes that insurgencies embody a challenge to a central government, whereby they are trying to gain the support of a mainly passive and uncommitted general public that could either side with the insurgents or the government. Therefore, the success of a counterinsurgency strategy lies in its ability to persuade this general public to side with the central government through a “winning the hearts and minds” strategy. This entails a provision of goods and

\(^{52}\) Ibid.
\(^{53}\) Ibid.
\(^{54}\) Ibid.
\(^{55}\) Sewall et al., *The U.S. Army/Marine Corps Counterinsurgency Field Manual*, 35.
services in addition to government-supplied security.\textsuperscript{56} This strategy makes sense if the struggle between the insurgents and counterinsurgents is rooted in ideology because this apathetic public can be easily swayed into adopting and believing in an ideology, but a different picture must be drawn if the conflict is based on ethnic or sectarian lines.

In fact, in identity wars the passive and uncommitted general public tends to be a smaller percentage of society. This is due to the obvious reason that people identify more strongly with their ethnicity than to a particular political ideology. Moreover, the fighting in an identity war causes people to identify more strongly with their fellow ethnics as a means of survival. The fighting in fact makes this uncommitted and indifferent general public an even smaller proportion of the population.\textsuperscript{57} It is clear then that, by making general assumptions about the nature of insurgencies (i.e. thinking they are all ideological revolutionary movements), the \textit{Manual} wrongly prescribes a general theory of counterinsurgency. In an identity war there may not actually be a “supracommunal national identity” that could potentially unify the people and counter the “subnational identities” who are the cause, or rather the root, of the internal war.\textsuperscript{58} The difference between ideationally led insurgencies and ethnically/sectarian led insurgencies and the subsequent counterinsurgency strategies will be more clearly illustrated through my case studies of Peru and Turkey.

The \textit{Manual} also makes assumptions about which side of the conflict the U.S. (or foreign forces in general) should side with. By this I mean that, the \textit{Manual}

\textsuperscript{57} Ibid.
\textsuperscript{58} Ibid.
assumes that the insurgents are inherently bad, and the central government are
necessarily threatened and have an assumed claim to legitimacy.\textsuperscript{59} The \textit{Manual} omits
the fact that insurgencies usually grow where the population is indeed dissatisfied
with the government and does not view it as legitimate. It does not take into
consideration the possibility that insurgency groups may have a justifiable reason for
their rebellion (e.g. the PKK could be considered justifiable on the lines of self-
determination and the need for ethnic recognition from the government). Moreover,
the U.S. should not assume that their interests are in line with those of the host
governments. Perhaps the latter are illegitimately in power and intend to remain so by
fighting the insurgents and deeming them as an illegitimate threat to the stability of
the central institutions.\textsuperscript{60}

By making assumptions on the nature of insurgency and interest alignment,
the \textit{Manual} is excluding the idea that a focus on capacity building and a “hearts and
minds” strategy would not be in the interest of a central government fighting an
insurgency war based on ethnic or sectarian lines. In fact, such a government might
think that these provisions would be enabling the insurgency instead of fighting it.\textsuperscript{61}
Therefore, the \textit{Manual} is actually lacking in a discussion of coercive bargaining with
the host.

Moreover, such assumptions on the nature and interests of insurgency and
counterinsurgency have led to an error in responsibility of authority. Chapter 6 of the
\textit{Manual} focuses on building the capacity of the armed forces in the host nation and

\textsuperscript{59} Ibid.
\textsuperscript{60} Ibid., 348.
\textsuperscript{61} Ibid.
prescriptions for creating indigenous security forces. Although I will show that the use of peasant militia was pivotal in Peru’s counterinsurgency strategy, such a policy would not be as effective in an ethnic/sectarian conflict such as Turkey. In such a situation, the rapid buildup of indigenous security forces “can easily exacerbate the internal security dilemma that often fuels the violence.” The Manual actually suggests that a way to go around the problem of exacerbating the internal security is to create mixed militias (i.e. of both military and civilians); but such armed groups would still reflect the realities of the societies.

The Manual assumes that the U.S. military is capable of acting both as an armed force and a government unit. As Brown claims: “if the manual can be reduced to a single didactic point, it is that successful wars against insurgents involve erudite and careful mobilization of every element of society in which they are being waged.” These wars will be won through a new kind of governance from the military that will provide security and stability for civilian life, will establish formal and informal economies, and will bring new structures of authority, and will look over political participation, culture, law, identity, social structure, material needs, ethnic and linguistic divisions, etc.... The Manual is, in a sense, requiring the U.S. military to act as a ‘Rousseauian lawgiver’ in the host countries and I remain dubious that the U.S. military is fully trained to take on this new role.

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62 Ibid., 349.
64 Sewall et al., The U.S. Army/Marine Corps Counterinsurgency Field Manual, 81-99.
CONCLUSION

In this chapter, I reviewed possible theories for effective and proper form of action that constitutional democracies should follow when faced with an insurgency. It is important to remember that these are simply theories, and as I shall show in the following case studies of Peru and Turkey that theory does not always work in practice. This is particularly true when dealing with the idea of democratic consolidation and regime stability. Most of these theories seem to assume that the democratic country dealing with the insurgency is a liberal and consolidated democracy. Peru and Turkey could hardly be considered stable and consolidated democracies when the governments were faced with their respective insurgencies. Thus, the topic of institutional strength will be crucial when understanding the different course of action in my case studies, and the subsequent costs of the counterinsurgency policies on democracy and the rule of law.
CHAPTER 2: PERU AND THE *SENDERO LUMINOSO*

In this chapter, I will study Peru’s ability to fight the *Sendero Luminoso* insurgency from 1980 until 1992, and the aftermath of the war under Fujimori. Peru is an interesting example of a new and fragile democracy faced with the threat of a revolutionary insurgency group. Peru’s struggle to maintain strong democratic institutions and uphold the rule of law serves as an example for my study of counterinsurgency.

The *Sendero Luminoso* guerrilla group can be considered a revolutionary and ideologically driven movement. Here, the U.S. theory of counterinsurgency with a focus on winning the ‘hearts and minds’ of the people could have been applied to Peru. However, I will show that it is not enough to focus solely on that strategy, and it is also important to demand political engagement from the communities threatened by the terrorist group.

I shall specifically assess the costs of the counterinsurgency measures employed to fight the *Sendero Luminoso* on Peru’s ability to maintain a democracy and respect the rule of law. I will argue that Peru’s strong reliance on the military for
counterinsurgency policy jeopardized Peruvian democracy and democratic consolidation. If separation of powers and horizontal accountability had been prioritized then the state of democracy in Peru post-conflict may have been more stable.

I will first give a brief historical background on the rise of the *Sendero Luminoso*, and then I will analyze the government response. I will attempt to show that Peru was able to maintain a relatively good level of polyarchy, albeit an unstable regime, while fighting the insurgency, and was not able to uphold the rule of law because of gross human rights abuses. I will show that these abuses cannot be justified on the basis of counterinsurgency strategy, and in fact, they very much detracted from the government’s ability to defeat the insurgency more quickly. In addition, I assess the level of democracy post-insurgency, and I show that the Fujimori presidency was not a consolidated or stable democracy, but rather a delegative democracy with a personalistic style of governance. In addition, the Fujimori administration did not uphold the rule of law, which is illustrated through human rights violations.

**HISTORICAL BACKGROUND OF THE *SENDERO LUMINOSO* MOVEMENT**

On May 17th, 1980, the eve of Peru’s first presidential election in sixteen years, a minor Maoist group burned the ballot boxes and voting lists in the small Andean town of Chuschi (in the Department of Ayacucho). While the event marks the initiation of an armed struggle led by the *Sendero Luminoso* against the central

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Peruvian government, it was nonetheless lost in the flood of election news. The *Sendero Luminoso* consider May 17th as the beginning of the “People’s War” in Peru. Led by Abimael Guzmán, the group was able to develop and fight a protracted warfare to overthrow the government for over twelve years.

The insurgency was able to expand from its base in the southern Andean department of Ayacucho, followed by the lowlands of the east Andes, through the coca-growing regions in the northeast, and finally into basically every region in the country including Lima. One of the main reasons why the guerrilla group was able to consolidate so much power is because it received little attention from the central government in the first year. When the government did finally react, its policies were too forceful and ended up helping the insurgency. Over time, however, the government was able to institute policies that diminished the power of the insurgency through civilian cooperation.

The following is a brief overview of the *Sendero Luminoso*’s origins and ideology, and the way in which it was able to promulgate a revolutionary movement under a democracy.

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3 Ibid., 34.
5 Ibid.
6 Ibid., 290.
Origins and Ideology

The origins and ideology of the Sendero Luminoso are rooted in a history of communist intellectual thought. While the group is a pro-Maoist insurgency, its ideology does not rest solely upon that of the Chinese revolutionary. It also draws directly from Marxism, Leninism, and ‘Mariáteguism’. The latter believed that a socialist revolution would evolve organically in Latin America on the basis of local conditions and practices as opposed to importing and imposing European Marxist ideals. Mariátegui also believed that a socialist revolution in Latin America would be different from Europe (and Asia), where the revolution would involve “a revolutionary strategy of ‘national liberation’ without, in conjunction, class liberation.” Mariátegui thought the socialist revolution in Latin America, and Peru in particular, would not arise through class action as it would in Europe, but rather through a revolution led by the indigenous people against the feudal system. As opposed to Europe, Peru in the early twentieth century was not industrialized and, as a result there was not the same class-relationship of bourgeois-proletariat but rather one of landowner-indigenous peasants.

The leader of the party, Abimael Guzmán was a professor of philosophy at the Universidad Nacional de San Cristóbal de Huamanga in Ayacucho. He focused most of his research and teaching on Maoist thought. The location of the university is significant: Ayacucho is one the poorest and most remote indigenous communities in

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7 Degregori, "Return to the Past," 21.
9 James F. Rochlin, Vanguard Revolutionaries in Latin America: Peru, Colombia, Mexico (Lynne Rienner Publishers, 2002), 32.
the country and therefore Guzmán was able to be an influential figure on campus based on his charisma, knowledge, and worldliness.\footnote{Ibid.} He was able to persuade his students and colleagues with Maoist ideas of overthrowing the Peruvian government. In fact, after being appointed Dean of Letters, Guzmán ensured that the professors at the University were also party leaders.\footnote{Gustavo Gorriti, "Shining Path’s Stalin and Trotsky," ed. David Scott Palmer (Palgrave Macmillan, 1994), 162.} He was able to exploit the student-teacher relationship to create an opposition to the central government.

*Sendero Luminoso*’s ideology is often described as “Gonzalo Thought,” after Guzmán’s nickname.\footnote{Rochlin, *Vanguard Revolutionaries in Latin America: Peru, Colombia, Mexico*, 33.} This meant that the group was to uphold Marxist-Leninist-Maoist ideals, while also recreating Mariátegui’s communist party. In fact, Guzmán saw himself as the “Fourth Sword of Marxism.”\footnote{“Gonzalo Thought has been forged through long years of intense, tenacious, and incessant struggle to uphold, defend and apply Marxism-Leninism-Maoism, and to retake Mariátegui’s path and to develop it, to reconstitute the Party and, principally, to initiate, maintain and develop the People’s war in Peru serving world Revolution.”} While the Party had a rough basis of Marxist historical materialism and incorporated Lenin’s idea that imperialism was capitalism’s final phase, it ascribed more strongly to Mao’s focus on the agricultural class as opposed to industrial proletariats.\footnote{Chernick, "PCP-SL: The Defeat of Sendero Luminoso in Peru," 289.} This is mainly due to the fact that Peru still had a strong agricultural base, and Guzmán was aware that he could more easily appeal to, or rather coerce, the indigenous farming population.

In sum, the *Sendero Luminoso* achieved the goal of a communist revolution within a democratic state through modern ideology. The ideology was modern in the sense that it incorporated ideas of “linear progress, of absolute truth, of binary
thought, of dialectical change, and of taking power over a nation-state.\textsuperscript{15} The 
Sendero Luminoso’s ideology, however, clashed directly with that of the indigenous 
populations in its view of “time, space, spirituality, and the nature of truth and of 
change.”\textsuperscript{16} Hence, by instituting a top-down ideology based on intellectual ideals, the 
insurgency group failed to appeal to the population it was hoping to indoctrinate. This 
is important when thinking about the ideological relationship between the insurgents 
and the indigenous populations, the subsequent strength of their bond, and possibility 
of persuading the indigenous population to side with the central government.

**Strategy and Power**

First and foremost, Sendero Luminoso’s goal was to “take power over the 
state through the vehicle of a violent revolution.”\textsuperscript{17} The group wanted full 
authoritarian control over Peru. They sought for the right timing to impose their 
ideology, and take over the government through “violence and terror, transnational 
crime, and Maoist and other styles of guerrilla warfare.”\textsuperscript{18} Hence, it is clear that the 
insurgency used force and fear as means of coercion to attain their goal of 
overthrowing the government. In fact, violence was a justified means to their ends. 
They saw their growing use of violence as a strategic threat to make the central 
government seem powerless.\textsuperscript{19}

\textsuperscript{15} Ibid., 39.  
\textsuperscript{16} Ibid.  
\textsuperscript{17} Ibid., 56.  
\textsuperscript{18} Ibid., 57.  
\textsuperscript{19} Ibid.
The guerrilla group saw three strategic steps in order to achieve their goal. First, the insurgency group had to rally up its troops and establish a strong base. Second, after adequate support and funding, it had to reach equilibrium of force with the government, and the guerrilla group provided the resources for a revolutionary takeover. And finally, *Sendero Luminoso* would overthrow the Peruvian government.\(^{20}\) These steps show the simplicity of the *Sendero Luminoso*’s strategy; this comes back to the efficacious organization of the insurgency group. They had one aspiration and saw a clear path to it.

One might question Guzmán’s ability to convince his followers that violence and destruction was truly the way to revolution. In fact, he persuaded his followers into believing that terror would allow for the “construction of a nirvana based on Gonzalo Thought.”\(^{21}\) In addition, he encouraged supporters to believe in self-sacrifice for a greater cause.\(^{22}\) Guzmán presented himself almost as a God who knew what was best for mankind (or at least Peru). The development of his strategy began in May 1980 and lasted until September 1992 when he was captured. By 1991, the group had consolidated power in key strategic areas of the countryside throughout Peru, and was also well invested in conquering Lima.\(^{23}\) The *Sendero Luminoso* was able to maintain their insurgency against the Peruvian government for more than twelve years.

\(^{20}\) Ibid.
\(^{21}\) Ibid., 58.
\(^{22}\) Ibid.
\(^{23}\) Ibid., 63.
Factors that Led to the Rise of the *Sendero Luminoso* Movement

The rise of the guerrilla movement took root in the 1960s in Ayacucho, a remote and isolated department, or state in the Southern Highlands of Peru. This was important because the area was underdeveloped to the point of having few paved roads, and only one dirt road that led to Lima. There was basically no electricity, and only one weekly newspaper.\(^{24}\) It is clear that this area was getting very little attention and support from the central government. Moreover, in the 1960s and 70s, the government and military tolerated Marxist groups among students and teachers, as well as in labor unions.\(^{25}\) The *Sendero Luminoso* movement was able to develop for over 17 years without being noticed by the central government. In addition, the opportunity to be part of a revolutionary movement attracted many of Peru’s best scholars, including Abimael Guzmán. He was able to organize the party and establish a strong presence within the university, which soon became a sort of incubator and launching platform for the movement.\(^{26}\)

Lenin’s voluntarist dictum could be applied as Peru was returning to a democracy with great support.\(^{27}\) This was another important factor relating to the rise of the *Sendero Luminoso*. Guzmán could see that launching the people’s war would force the government to react with force as well, and revert back to being an indiscriminately repressive state. As a result, the government would be largely discredited, would loose its popular support and the people would eventually side

\(^{25}\) Ibid., 198.
\(^{26}\) Ibid., 199.
\(^{27}\) Ibid.
with the revolutionary movement. Therefore, although the conditions for armed struggle in Peru in the 1980s were not ideal for a Leninist revolution, by launching the people’s war, Guzmán was creating “favorable objective conditions for revolutionary expansion.”

Now that I have presented a brief historical account of the rise of the *Sendero Luminoso* movement, I can look at the government’s response and its costs on democracy and the rule of law.

**Government Response**

Although Peru was able to capture Abimael Guzmán, the leader of the *Sendero Luminoso* movement, and subsequently dismantle the powers of the insurgency group, its counterinsurgency strategy not only led to countless human rights violations through the use of terror, violent torture, and disappearances, but also undermined the strength and stability of its polyarchal institutions. In this section of the chapter, I focus on the government’s successful and unsuccessful counterinsurgency strategies in defeating the *Sendero Luminoso*, and I show that non-repressive means appear to have been more successful at defeating the insurgency than violent ones. In fact, anti-terrorist and anti-subversion missions were counter-productive in that they did not necessarily help in capturing *Sendero Luminoso* leaders, but they did create a relationship of mistrust between civilians and their government. Shifting the mindset of the counterinsurgency strategy from simply

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chasing the leaders at all costs to winning the ‘hearts and minds’ of the people was crucial in defeating the ideologically driven insurgency.

**Unsuccessful Counterinsurgency Strategies**

When the *Sendero Luminoso* began the ‘people’s war’ in May 1980, the central government, under the civilian authority of President Belaúnde, did not consider the insurgency to be a real threat to the newly democratic order. This essentially gave the insurgency group a grace period to begin expanding their base in Ayacucho. Within a year, the *Sendero Luminoso* were dynamiting public buildings and power stations, in addition to putting together ‘popular trials’ that led to the execution of local officials, landowners, and any other actors in society that could stand in the way of their expansion.  

29 These guerrilla offensives led to the first anti-terrorist law in the Peruvian democracy.

In March 1981, the Belaúnde administration passed Legislative Decree 46, which was an anti-terrorist law that instituted “strict penalties for persons convicted of terrorism and enabled the police to detain suspects for up to fifteen days without court interference.”  

30 Although the decree was poorly executed based on the broad definition of terrorism, credit must be given to the Belaúnde administration for making an effort at acknowledging the relative threat of the insurgency, and finally adopting measures to obstruct it. The Peruvian armed forces were trained to fight external enemies, and this was the first time that Peru, as a democracy, had to fight an

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30 Ibid.,
internal conflict. Nonetheless, the law led to the detention of many innocent activists, be it students, workers, peasant or community organizations. According to Americas Watch, 2,294 persons were detained in accordance with the Legislative Decree 46. The anti-terrorist law greatly undermined vertical accountability from the government to its citizens.

By December 1982, human rights abuses increased when the central government proclaimed a state of emergency in four provinces of the department of Ayacucho. The state of emergency meant that these provinces and their civilian governments were to be under the administrative control of the military. Officers appointed by the president were now in command of these provinces, and the armed forces in general intensified their counterinsurgency strategy in the southern highlands. According to Americas Watch, the new counterinsurgency strategies were marked by systematic use of torture, disappearances, and extrajudicial executions to institute fear amidst the indigenous population and contain Sendero Luminoso insurgency; by December 1983 the attorney general admitted that he had received 1,200 allegations of disappearances. Until García was elected president in 1985, the counterinsurgency tactics in these emergency zones resembled that of the ‘Dirty War’ in Argentina in the 1970s.

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With the popular election of civilian president Alan García in 1985 came a shift in counterinsurgency policy. The president was determined to put an end to military violence against civilians, and promised to protect, first and foremost, human rights. In addition, he chose to fight the insurgency through developmental and social policies for the populations living in the emergency zones. García instituted development assistance in the Ayacucho region through the provision of substantial agrarian loans at a zero interest rate. In addition, public investment in the region increased by 400 percent between 1985 and 1986.\(^{35}\) While these initiatives showed strong results within the first two years of García’s presidency, the economic downturn in the mid-to late-80s resulted in the lack of funding for these projects.\(^{36}\) In addition to the social approach to counterinsurgency, in the last two years of his presidency, García stressed the need for a more elaborate intelligence institution to understand the *Sendero Luminoso* strategy. He established the Dirección Nacional Contra el Terrorismo (National Agency Against Terrorism, DINCOTE), which subsequently was responsible for the capture of Abimael Guzmán in 1992. He also stressed the need for peasant militia, which allowed the indigenous populations to be directly involved in fighting the *Sendero Luminoso* alongside the Peruvian armed forces.\(^{37}\)

It is important to note that García’s efforts led to a temporary progress in human rights protection as well as in economic development.\(^{38}\) In fact, “the army’s

\(^{35}\) Rochlin, *Vanguard Revolutionaries in Latin America: Peru, Colombia, Mexico*, 66.

\(^{36}\) Ibid.

\(^{37}\) Ibid., 67.

counterinsurgency tactics had weakened the *Sendero Luminoso* stronghold in Ayacucho, and the number of disappearances and extrajudicial killings by the armed forces declined after García became president.\textsuperscript{39} Furthermore, while under the Belaúnde government there was an annual average of 600 disappearances reported, under the García administration the annual average reports fell to about 100.\textsuperscript{40}

**Successful Counterinsurgency Strategies**

Although I categorize García’s developmental approach to counterinsurgency as unsuccessful due to the economic downturn and the subsequent lack of resources to fund the social projects in the Ayacucho region, I also consider his winning the “hearts-and minds” strategy and civic actions campaign in the late 1980s to be the first successful counterinsurgency strategy against the *Sendero Luminoso*. In addition to the agrarian loans, there were modest civic actions campaign in many of the urban neighborhoods and communities that were most prone to being influenced by the *Sendero Luminoso* in addition to being strategically located for the insurgency.\textsuperscript{41} Although the campaign was moderate, and included services such as free haircuts and health clinics, reroofing local schools, trash cleanup campaigns, the building of access roads or trails, it nonetheless made a difference in gaining the trust and support from the local populations.\textsuperscript{42} Through the media, a more positive image of the military was being portrayed and thus changing the “hearts and minds” of the people. This helped

\textsuperscript{39} Ibid.
\textsuperscript{40} Ibid., 536.
\textsuperscript{41} Palmer, "Terror in the Name of Mao," 204.
\textsuperscript{42} Ibid., 205.
establish a system of vertical accountability from the government to the people living in the region.

A second successful counterinsurgency policy was the placement of at least one soldier from the specific community or area to the unit conducting operations in that district in early 1990. This created a more personal relationship between the communities and the armed forces, and increased civilian political engagement in the war against the guerrilla group. In addition, most of the emergency zones were indigenous communities where the local language was not necessarily Spanish. Therefore, it was essential to have at least one person in each military team that was able to communicate with the local populations. Moreover, the armed forces made a greater effort at being more sensitive to indiscriminate operations and attacks on local populations.

A third major shift in counterinsurgency strategy was the use of rondas campesinas (peasant civil defense committees) under the Fujimori government. The policy was actually established, as I noted above, under the García administration but did not reach full fruition until 1990. The government began “providing basic military training and an average of two or three rifles with a few bullets each for each ronda.” The number of rondas grew drastically: by 1993 over 4,200 rondas were organized across the highlands, with a membership of almost 236,000. According to Palmer:

43 Ibid., 205.
44 Ibid.
45 Ibid.
46 Ibid., 206.
47 Ibid., 206.
Assisting the *rondas* may have been the single most important adjustment in the Peruvian government’s counterinsurgency strategy, as it have some measure of increased capacity for resistance to the local populations most affected by the guerrillas and with the greatest stake in overcoming the threat.\(^{48}\)

This increased reliance of the government on peasant civil defense groups was: first, a result of growing government tolerance of paramilitary groups to fight the insurgency; second, an indicator of the declining ability and unwillingness of the government and military to assert their authority; and third, a result of the lack of new counterinsurgency strategy by 1988.\(^{49}\) Eventually, the number of *rondas* grew to close to 50,000 covering huge tracts of rural hinterlands, and the Ministry of Defense provided them with modern automatic weaponry.\(^{50}\) As I said earlier, these peasant militias allowed the indigenous populations to be involved in their own security and to feel trusted by the government.

The fourth significant counterinsurgency strategy was the vast improvements in intelligence operations. The government decided to join the eight separate intelligence agencies under the umbrella of DINCOTE (as defined on pg.54) thereby increasing efficiency and the amount of knowledge.\(^{51}\) Moreover, a smaller police organization, the Grupo Especial de Inteligencia (Special Intelligence Group, or GEIN), was formed specifically to track *Sendero Luminoso* activity.\(^{52}\) Finally, the efforts of the GEIN in tracking insurgent activity came to fruition on September 12,

\(^{48}\) Ibid.


\(^{52}\) Ibid., 24.
1992 when thirty-five of its members captured Abimael Guzmán (the leader of the Sendero Luminoso movement) in a safe house in a Lima suburb.\(^{53}\)

Now that I have outlined the government response to the Sendero Luminoso insurgency, I can evaluate the costs of these counterinsurgency strategies on Peru’s polyarchal democracy, its democratic consolidation, its ability to uphold the rule of law, and finally, the extent of its human rights abuses.

**COSTS OF COUNTERINSURGENCY STRATEGY ON DEMOCRACY AND THE RULE OF LAW**

In assessing the costs of counterinsurgency policies on democracy and the rule of law in Peru, I am using the definitions in my introduction as a theoretical framework for the analysis. I will first focus on these costs during the war against the Sendero Luminoso, and then I will assess the costs under the Fujimori government.

To assess the costs of counterinsurgency strategy on democracy, I shall first base my analysis on Dahl’s six political institutions that are necessary for a polyarchy: elected officials, free, fair and frequent elections, freedom of expression, alternative sources of information, associational autonomy, and inclusive citizenship; and then I will use Schedler’s study of democratic consolidation to assess the stability of the Peruvian democratic regime.

To assess the costs on the practice of the rule of law, I shall first look at the separation of powers and horizontal accountability; second, I shall look at the level of proportionality of the powers within the executive; third, I shall assess the level of

\(^{53}\) Palmer, "Terror in the Name of Mao," 207.
vertical accountability and transparency of governmental affairs; and finally, I shall analyze the independence of the judiciary.

Democracy and the Rule of Law During the Internal War (1980-1992)

Democracy

In 1980, for the first time in seventeen years, Peru held a presidential election with universal suffrage and this election changed the political landscape for Peru. Similarly to most Latin American countries during the Cold War period, Peru was governed by a bureaucratic authoritarian regime. Moreover, before relaying power to a civilian government, the military established a mobilization law that gave it permission to intervene independently in the case of a security threat. The rise of the Sendero Luminoso during this democratic transition intensified the difficulties of demilitarizing political authority and restricting military rights and privileges, and the shift to a democratic state was also accompanied by a relationship of mistrust between civilians and the military. It is clear that, from the start, the state was struggling to find a balance of power between the civilian government and the military.

Moreover, the emergence of a guerrilla insurgency in the 1980s pushed the newly democratic government to become increasingly dependent upon the military in order to contain the internal war, which greatly affected the balance of power between civilians and the armed forces and discredited elected officials’ ability to govern their

54 Ibid., 196.
55 Rochlin, Vanguard Revolutionaries in Latin America: Peru, Colombia, Mexico, 65.
country and provide security.\textsuperscript{57} Moreover, the rise of the *Sendero Luminoso* led to the creation of the new strategic field of counterinsurgency for military policy, and inevitably required the military’s input and influence in designing the optimal military strategy. In fact, under the Belaúnde presidency (elected in 1980) the military was given control over both the tactical and operational aspects of counterinsurgency policy. In addition, the government granted the military political and administrative authority over the emergency zones in the Ayacucho department where the *Sendero Luminoso* was especially active.\textsuperscript{58} Therefore, as Peruvian politics were in the process of returning to a civilian government and moving away from a dependence on the armed forces, the guerrilla war impeded on this process.

The government was also dealing with economic difficulties throughout this period. To begin with, in the department of Ayacucho where the *Sendero Luminoso* began the people’s war, “there were no paved roads in the department, only one single-lane dirt highway connecting the city of Ayacucho to the capital city of Lima, no telephones, sporadic electricity limited to three or four urban centers, a single radio station, and one weekly newspaper.”\textsuperscript{59} Underdevelopment in the southern highlands was a problem even before the internal war begun.\textsuperscript{60} When President García, elected in 1985, wanted to shift the counterinsurgency strategy to incorporate economic as well as military initiative in the highlands and take a more developmentalist approach to fighting the insurgency through agrarian loans and

\textsuperscript{57} Ibid.  
\textsuperscript{58} Ibid.  
\textsuperscript{59} Palmer, "Terror in the Name of Mao," 197.  
\textsuperscript{60} Ibid. In fact, underdevelopment is one of the main reasons why the *Sendero Luminoso* could exploit the indigenous populations in the Ayacucho department.
increased public investment, his administration was limited in its ability to pull through due to a lack of economic resources and misguided policies. García’s attempts to provide social services to the civilians in the emergency zones led to hyperinflation and eventually an economic crisis. These economic constraints placed yet another burden on the government’s ability to fight the *Sendero Luminoso.*

*Assessing Polyarchy*

It is also important to note that, although there was a struggle to maintain a balance of power between the civilian government and the military, Peru nonetheless upheld five out of Dahl’s six political institutions for polyarchy at a relatively good standard: elected officials, free, fair and frequent elections, freedom of expression, alternative sources of information, associational autonomy. The government held three free and fair elections between 1980 and 1992. In fact, “between 1980 and 1992, scholars agreed that Peru met the standard criteria for the democratic label.” However, I remain dubious of this claim considering the abuses of human rights; however, opposing political parties rarely questioned the freedom and fairness of the elections and the Marxist left participated in the electoral process throughout the period. The data in table 1 (at the end of this chapter) shows that 37% of the surveyed people agreed there was freedom of expression, and 60% claimed the elections were fair. These numbers do not mean much unless they are compared to other countries with similar context such as El Salvador where only 17% thought they were given freedom

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61 Ibid., 201.
63 Ibid., 110.
of expression, and only 33% believed the elections to be fair. In addition, looking at table 2, the percentage of registered voter turnout was usually high: 82% in 1980, 92% in 1985, and 77% in 1990.

However, what these figures do not address is that the declared ‘emergency zones’ ceased to be governed by the democratic government and instead were governed by military dictatorships or the Sendero Luminoso. Hence, while most of Peru was experiencing relative political freedom, there were also zones where the people did not even know whether they would still be alive the following day.64 Peru cannot be considered to have inclusive citizenship if a percentage of its citizens did not vote, and were not governed by elected officials in the central government.

Throughout the war, however, the media remained relatively vibrant. As soon as the popularly elected civilian regime was in place in 1980, President Belaúnde returned the newspapers, television and radio stations to their owners. In addition, some journalists and entrepreneurs with ties to the previous military regime founded new newspapers such as La Republica.65 The civilian government made great efforts to guarantee that freedom of the press was being maximized, to the extent that, El Diario became the Sendero Luminoso’s spokesperson, and “continued to be published and sold openly through the 1980s, even when the internal war had virtually reached every province in Peru.”66 This became a problem, specifically in the emergency zones, which under the military dictatorships, gave the Sendero Luminoso a chance to

64 Gustavo Gorriti, La Democracia en Cuestión (Miami: University of Miami), 79. Translated by author.
66 Ibid.
“publish its version of the events, its party documents and chiefly its propaganda alongside the other reports.” Freedom of the press in Peru was liberal to the extent that it gave a national voice to the Sendero Luminoso, and aided to the deterioration of the democratic regime.

The exposure to the internal war with the Sendero Luminoso affected the press because of the inherent difficulties in informing the public on dramatically changing news due to their own need to make sense of the events.\textsuperscript{67} In fact, “very few papers or journalists were able to do so in print; their voices were mostly drowned in the partisan infighting that also afflicted the press.”\textsuperscript{68} Moreover, many investigative journalists died while trying to report on the activities of the Sendero Luminoso. A group of eight journalists that were hiking in Uchuraccay (a desolate place in the high Andes) were attacked and lynched by villagers there. This event traumatized the nation and journalists, and, although the press was free, journalists felt threatened. However, “the independent press nevertheless continued to investigate human-rights violations,” and publicly discussed them in the media.\textsuperscript{69}

It is clear that, from 1980 to 1992, the Peruvian government tried to maintain a relatively good standard of its political institutions for polyarchal democracy. This is something to keep in mind when thinking about democracy in Peru post-internal war. Although the war made the democratic regime unstable, the civilian governments in power throughout the period tried to the best of their ability to

\textsuperscript{67} Ibid., 230.
\textsuperscript{68} Ibid.
\textsuperscript{69} Ibid., 231
maintain the political institutions necessary to uphold what Dahl calls ‘the democratic process.’

Democratic Consolidation

Although my assessment of polyarchy in Peru showed that the political institutions for polyarchal democracy were relatively respected during the war, my analysis does not say much about the stability of the democratic regime as a whole. In order to have an understanding of regime stability, I am drawing from Schedler’s “What is Democratic Consolidation?” According to Schedler, “the term ‘democratic consolidation’ should refer to expectations of regime continuity.” As I explained in my introduction, democratic consolidation can be seen as a country’s ability to maintain a stable democratic regime. Failure to do so will bring the regime closer to authoritarianism. A country can either actively be trying to prevent instability and subsequently transform itself into a semi or fully authoritarian regime, or it can actively work to deepen its democracy to achieve greater stability.

During the war, the state of the Peruvian democratic regime can be described as ‘preventing democratic erosion.’ This implies a “gradual corrosion leading to fuzzy semidemocracy, to a hybrid regime somewhere between liberal democracy and dictatorship.” Peru fits this description because, although it maintained the polyarchal institutions, the government was more focused on preventing democratic failure than striving for democratic deepening. This is common for new and fragile democracies faced with an internal enemy. Moreover, the use of emergency zones did

70 Schedler, "What is Democratic Consolidation?," 103.
71 Ibid., 97.
not provide the space for democratization. As a result, democracy as a regime was not stable in Peru throughout the war.

**Rule of Law**

Although it would be enlightening to address all four political institutions for the practice of the rule of law during the war, in the interest of space I would like to focus mainly on the horizontal accountability between the civilian government and the military. I believe I have, to an extent, touched upon the vertical accountability and transparency of governmental affairs in my discussion of the press. Moreover, the idea of proportionality of powers will be addressed in my discussion of the role of the military.

*Separation of Powers and Horizontal Accountability*

Making the military autonomous from the central government under president Belaúnde provided the armed forces with a de facto *carte blanche* for all their actions in the emergency zones. Therefore, what developed was an independent military with self-defined privileges, uncontrolled by civilian officials. In addition, there was a general unwillingness on the part of the Belaúnde administration to question military decisions.\(^72\) It is clear that, at its roots, the Peruvian government did not have the stability in its democratic institutions to combat the insurgency while protecting innocent civilians. From the start, by granting the armed forces full independence from the government, there was a clear lack of accountability from the armed forces

\(^72\) Mauceri, "Military Politics and Counter-Insurgency in Peru," 89.
to the government, which could then pursue the counterinsurgency strategy and the defend national security without much restraint.

The autonomy of the military created, in effect, a state within a state. In fact, “this abdication [in the early 1980s] of civilian authority has enabled the armed forces to violate human rights with impunity and operate virtually unfettered by the legal and political constraints of constitutional norms and democratic accountability.” This meant that the counterinsurgency policy did not have to be based or constrained by the Peruvian constitution and established a form of state terrorism. The civilians were now threatened and coerced by both the armed forces and the Sendero Luminoso. It goes without saying that this led to great distrust of the government. Civilians, and in particular the indigenous populations living in the emergency zones, were faced with the dilemma of whether to side with the Sendero Luminoso or the armed forces.

It should also be stressed that many indigenous populations have always been suspicious of the military and the national government due to five centuries of Hispanic domination. Similarly, the army is suspicious of the loyalty to the Peruvian government of the indigenous communities. This idea of political mistrust increased the propensity to use violent measures in the armed forces’ counterinsurgency policy. Hence, it is clear that the military, in creating a counterinsurgency policy, had its own agenda in identifying an internal enemy.

74 Ibid.  
75 Ibid., 535.
In sum, due to the weakness of the new democratic institutions and the general mistrust between the central government and the indigenous populations, it is unclear whether the government could have been more involved in the development of the counterinsurgency strategy in the emergency zones. Although granting the armed forces autonomy from the central government in fighting the insurgency undermined democratic ideals and led to human rights abuses, it is understandable that the Beláunde, García and Fujimori administrations (although the latter to a lesser extent) did not assume a greater role in deciding on the proper counterinsurgency policies. In fact, “while military leaders by themselves are unlikely to have all the answers to the problems of insurgency, civilian leaders may not either.”

Because of the weak horizontal accountability from the military to the government, the administrations throughout the war did not uphold the necessary institutions for a democratic rule of law. By granting the military full autonomy, there was also a breach in vertical accountability from the government to the people in the emergency zones. It is important to note, however, that the rule of law was basically respected outside of the emergency zones, and vertical accountability through the use of the free press, remained intact.

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76 McClintock, *Revolutionary Movements in Latin America: El Salvador's FMLN and Peru's Shining Path*, 129.

Although the twelve years of war dramatically weakened Peru’s political institutions while also traumatizing the society, the electoral institutions were still intact by the time Fujimori was elected in 1990. Throughout the war against the Sendero Luminoso, the Peruvian government managed to maintain a level of vertical accountability between elected officials and civilians. In April 1992, however, Fujimori shut down the Peruvian Congress and, with the support of the armed forces, seized dictatorial power. The president basically directed a coup d’état against his own democratically elected government. Although the auto-golpe (or self-coup) enabled Fujimori to consolidate power and strengthen state institutions, it also meant that Peru became a delegative democracy whereby the president becomes “the embodiment of the nation and the main custodian of the national interest” (electoral democracy with centralized executive powers).77 The auto-golpe was criticized by all major political parties, by the major news sources, and by most interest groups, however, public opinion overwhelmingly supported the president.78

Interestingly, many did not consider the auto-golpe as contradicting views of democracy. Most Peruvians “embraced the individual freedoms that are features of liberal democracy but emphasized a vertical accountability that was more consistent with a delegative perspective.”79 However, 71 percent of respondents to an Apoyo

79 Ibid.
Opinión survey in May 1992 did claim that they would not approve of Fujimori if he did not return to a constitutional regime, and 96 percent believed that it was imperative for the administration to respect the freedom of the press.\textsuperscript{80} About three months after Gúzman’s capture, Fujimori’s handpicked list of candidates from his Cambio 90 (C-90) movement and the newly formed Nueva Mayoría (NM) won 49 percent of the valid vote and 44 of the 80 seats in the constitutional convention elections (congreso constituyente democrático, CCD). By October 1993, the NM-C90 majority drafted a new constitution approved by a narrow 52-48 percent margin in a controversial referendum.\textsuperscript{81} Amongst other things, the new constitution allowed a chief executive to serve two consecutive terms, thus allowing Fujimori to run again in 1995. However, the new constitution was not drafted as a disguise for continued authoritarian rule, and although the executive powers were centralized, in theory the constitution also established checks on executive decree authority through an, albeit uneven, separation of power. In addition, the executive no longer had a role in the selection of the judiciary.\textsuperscript{82} In practice, however, the power of the president and his military allies remained unchecked by civilian institutions.\textsuperscript{83}

Despite the centrality of his powers, Fujimori was nonetheless reelected in 1995. Although this was unexpected from a western liberal studies point of view, it may be explained by the fact that most Peruvians believed that “whatever their problems, they [were] better off [under Fujimori] than they were before [his] first

\textsuperscript{80} Ibid.
\textsuperscript{81} Ibid.
\textsuperscript{82} Ibid.
\textsuperscript{83} Ibid., 104.
election victory in 1990.” There are a number of political and economic factors that can support this popular perception. First, political violence greatly decreased. In fact, after the capture of Abimael Guzmán, political violence related to the Sendero Luminoso fell from almost 3,000 incidents and 3,800 deaths in 1990 to 300 incidents and 150 deaths in 1998. Moreover, the number of provinces under the ‘emergency zones’ was reduced from more than 80 in 1990 to less than 30 in 1998. The Peruvian government under Fujimori was able to regain some legitimacy with respect to the conflict with the Sendero Luminoso. Of course, one could argue that the political violence from the guerrilla movement was most likely going to decrease after capturing Guzmán. Fujimori’s policies, however, prevented that a new leader of the movement be able to, once again, threaten the legitimacy of the state.

Second, inflation went down from 7,650 percent in 1990 to just over 5 percent in 1998. In addition, “after a 32 percent decline in the 1980s,” starting in 1993 Peru saw an economic growth at 6.4 percent, and averaged at 7.4 percent annually between 1993 and 1997. It dropped to 0.3 percent in 1998 due to the effects of El Niño and the Asian Financial crisis. Fujimori’s administration reformed the tax collection system, and government revenues from these taxes increased from “4 percent of GDP in 1990 to between 12 and 14 percent per year over the course of the decade.” Third, the Fujimori government re-initiated foreign debt interest payments in late 1990, which

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85 Ibid.
86 Ibid.
87 Ibid.
88 Ibid.
89 Ibid.
normalized Peru’s economic relation with the international financial community, and there was an inflow of $8 billion in new credits between 1992 and 1998. The Fujimori administration also signed a plan “with international creditors in 1995 that reduced Peru’s total foreign debt from $25.7 billion in 1995 to $18.8 billion in 1997.”

These economic reforms provided the financial support to rebuild Peru’s infrastructure that was devastated by the Sendero Luminoso guerrillas. In addition, the government had greater economic flexibility to implement “significant programs of small-scale public works at the local level in the mostly rural districts identified as the nation’s poorest.” In fact, poverty declined from 57 percent in 1991 to 51 percent in 1997. The improvements in economic stability led civilians to trust in the ability of their government in providing the necessary needs for survival. However, despite the fact that Peru was better off than it was in 1990, “economic uncertainties, a personalistic political style, and systematic intimidation and manipulation of the political opposition could [still] provoke [political] instability.”

Assessing Polyarchy

Although elections and separation of powers existed under Fujimori, the centralization of the executive and the personalistic style of governance decreased the government’s ability to provide horizontal accountability. This, however, did not decrease Fujimori’s popularity. In fact, he was re-elected president in 1995 with over

90 Ibid., 61.
91 Ibid.
92 Ibid.
93 Ibid.
64% of the valid vote, and his approval rating until mid-1997 never went below 50%.\textsuperscript{95} The elections were considered free and fair, however, it is important to note the incumbency advantage that Fujimori had over his two rivals Pérez de Cuéllar and Toledo.\textsuperscript{96} He had greater power to sway the vote in his favor through his generally approved political, social and economic policies than did the other two candidates. Nonetheless, “irregularities were relatively infrequent and mostly minor” on election day in 1995 and “there is little evidence that the extensive military presence in the emergency zones intimidated voters.”\textsuperscript{97}

Even though elections for a constituent assembly and a new constitution took place one year after Fujimori’s self-coup, the administration relied mainly upon two groups in the government to formulate and implement policies: technocrats and an informal network of loyalists.\textsuperscript{98} Neither of these were elected officials. This was mainly because Fujimori was not a member of a political party (he ran for election in 1990 as an independent). Thus, he relied mainly on this dual network of supporters to create government policy as opposed to being the leader of a political party with dedicated politicians to support his candidacy.\textsuperscript{99} In fact, “although his Cambio 90 movement had only a small Congressional contingent, the new president refused to form a coalition with any of the traditional parties, thereby maintaining the

\textsuperscript{95} Ibid., 899.
\textsuperscript{97} Ibid., 114.
\textsuperscript{98} Maucerri, "Return of the Caudillo: Autocratic Democracy in Peru," 899-900.
\textsuperscript{99} Ibid., 900.
independent image that had made him attractive to voters.”\textsuperscript{100} Therefore, in terms of polyarchy, I do not consider Fujimori’s democracy to uphold the political institution of elected officials. In addition, the lack of party politics, and in fact “outright repression of opposition groups,” also discredits Peru’s polyarchy in that the political institution of associational autonomy was not respected.\textsuperscript{101}

Freedom of speech was also limited under Fujimori. According to Wood:

The offices of newspapers, news magazines and television and radio stations were simultaneously visited by units of troops at 10:30 p.m. on 5 April 1992 (6 min before Fujimori announced the autogolpe to the nation via televised broadcast), and they were to remain in place for the duration of Monday 6 and the morning of Tuesday 7, a total of some 40 hours.\textsuperscript{102}

Fujimori directed the arrest, and on the morning of the 6\textsuperscript{th}, all of the leading papers had similar headlines across the political spectrum. These articles were written and printed under the constant watch of the military.\textsuperscript{103} The general approval of the self-coup is in part due to the media being under military surveillance and having restricted freedom of speech. Since the auto-golpe, the press was under yet another pressure. Due to his neo-liberal economic policies, Fujimori “called a meeting with representatives of the printed media at which he announced that tax exemptions for the importation of materials related to journalism and printing” were no longer available to them.\textsuperscript{104} Throughout the course of his presidency, the Peruvian media did

\textsuperscript{101} Mauceri, "Return of the Caudillo: Autocratic Democracy in Peru," 900.
\textsuperscript{103} Ibid.: 24.
\textsuperscript{104} Ibid.: 29.
not have the funds to survive on circulation revenues alone, and “the potential for political influence through economic manipulation must not be ignored.”

In conclusion, it is clear that Peru could not be considered a polyarchal democracy under Fujimori. Although both the 1990 and 1995 elections were considered free and fair, and there was inclusive citizenship, the Fujimori administration did not uphold the following political institutions: elected officials, freedom of expression, alternative sources of information, and associational autonomy.

Democratic Consolidation

As I mentioned previously, democracy under Fujimori can be qualified as ‘delegative democracy.’ According to O’Donnell, delegative democracies are “neither consolidated nor institutionalized democracies, but they may be enduring; in many cases, no imminent threat of an open authoritarian regression, nor advances toward institutionalized representatives, are in sight.” Moreover, delegative democracy can be considered “more democratic, but less liberal, than representative democracy.”

Similarly to Peru under Fujimori, democratic institutions in a delegative democracy are weak, give the President the advantage of basically no horizontal accountability, and the latter can “govern the country as he sees fit, and to the extent that existing power relations allow, for the term to which he has been elected.”

107 Ibid.: 60.
It is clear that, in this case, I do not have the grounds to analyze Peru through the criteria for democratic consolidation. Rather, I would like to focus on party-politics, or lack thereof under the Fujimori presidency, which was particularly hurtful to the Peruvian democratic regime. Parties are a first step to embedding democracy, and democratic institutions, into civilian life. Parties are essential for channeling grievances, and without them, civilians must resort to other means of dissent, which can include violence. In addition, in a party system, “there is a sense of mutual obligation between party leaders and the president to advance each others’ interest and avoid policies that might be costly to each other.”¹⁰⁹ Due to the lack of parties under Fujimori, I will describe his political support as a movement. The two ‘parties,’ Cambio 90 and Nueva Mayoria, developed by Fujimori and his supporters served as electoral vehicles, and could not be considered institutionalized parties because they did not have an independent power base of their own, and were “unable to provide a check on presidential activities.”¹¹⁰ Thus, they depended on the president to retain their governmental position, and had to remain loyal to the interests and needs of the president.

Movementism impedes on democratic consolidation, whereas party-politics deepens it. This is true for three main reasons: 1) parties view opposition as legitimate (or at least enduring) whereas movements view opposition as illegitimate and eradicable; 2) the route to power for parties is through fair elections whereas movements choose the most expedient one; and 3) parties place an emphasis on an

ideology or a program whereas movements emphasize a leader.\textsuperscript{111} Based on the lack of parties in Peru, I can infer that the democratic regime could not be considered stable in the long run. It is important to remember that, “democratization cannot take place without an institutional structure that provides incentives for political actors to engage in democratic behaviors,” and these structures are also bound to complex historical and cultural legacies. The belief in “concentrated political power as the ultimate agent of social change” was historically embedded in Peruvian civil society.\textsuperscript{112}

The Rule of Law

In my discussion on democracy, I have already touched upon the lack of horizontal accountability and separation of powers, and the degree of vertical accountability and transparency of governmental affairs. In this section, I would first like to address the proportionality of powers, and second, I will discuss the role of the judiciary, with particular reference to the abuse of human rights in the faceless courts set up to try terrorism linked to the \textit{Sendero Luminoso} insurgency.

Proportionality of Powers

After the 1992 \textit{auto-golpe}, President Fujimori closed down regional assemblies and replaced them with Transitional Councils of Regional Administration.

\textsuperscript{112} Mauceri, "Unchecked Power: The Presidency Under Fujimori and Beyond," 16.
These marked the end of Peru’s attempt at decentralization, and the members were designated by the President and were dependent upon the Ministry of the Presidency. The regional governments served as mere implementers of presidential policies, and severely reduced municipal powers. In fact, throughout the 80s, prior to Fujimori’s presidency, municipalities developed a significant amount of autonomy from the central government, and some were even able to implement their own social policies. Fujimori saw this autonomy as a threat to his popularity and political agenda, and also believed it would undermine the legitimacy of his administration. Municipalities were even fiscally dependent on the executive branch; in fact, the Decree Law 777 issued in 1993, eliminated the right of municipalities to raise revenue through taxation and required that all municipal revenue come from a Municipal Compensation Fund where the criteria regarding the distribution of funds was determined by executive decree laws and the Ministry of Economy and Finance. This is just one example of the disproportional and centralization of powers under Fujimori.

Another example of disproportional distribution of powers was seen through the significantly weakened powers of the Congress vis-à-vis the President. There was a “shift from a bicameral legislature with 240 members to a unicameral legislature with a mere 120 members.” This greatly affected political representation in the Congress, and reduced both the number of parties and of provinces that have elected

113 Ibid.: 14.
114 Ibid.
115 Ibid.
116 Ibid.
legislators. In addition, the Congress no longer gave legislative approval for “international treaties, ambassadorial appointments or high-level appointments in the armed forces.”

Judicial System and Human Rights

Similarly to the legislature and regional authorities, the judiciary was also weakened and lost its autonomy from the executive. After the *auto-golpe*, Fujimori dismissed the members of the Peruvian Supreme Court and many other judges. The decision, however, was supported by the fact that the judicial system had been considered corrupt and inefficient during the war years. Moreover, Fujimori included in the 1993 constitution that all judges were required to pass a written exam and established locally elected judges of the peace, in order to restore public confidence in the judiciary. However, these efforts were buried under executive power to decrease the independence of the judiciary. The dependence of the judiciary on the executive increased the difficulty to try cases with links to the Sendero Luminoso.

The *Human Rights Watch/Americas Report* “Presumption of Guilt: Human Rights Violations and the Faceless Courts in Peru,” provides an investigative and detailed report on “the incarceration of hundreds of innocent prisoners charged or convicted of terrorist crimes they did not commit.” It explains that those that were presumed guilty had minimal opportunity to explain their innocence, and that

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118 Ibid.
119 Ibid.: 907.
120 Ibid.
“faceless military and civilian courts, conducting secret trials behind prison walls, [continued] to sentence Peruvians to decades of imprisonment in life-threatening conditions without offering them the basic judicial process guarantees required by international human rights law.”122 These courts were established by Fujimori himself, and were dependent on the executive.

The faceless courts were instituted soon after the closing of the Congress and placing the judiciary under the control of the executive. There had been some efforts to try and restore the balance of power between the judiciary and the executive, however, “Peru’s democratic institutions [were] far weaker [then] than four years [earlier].”123 The creation of these courts in itself was a breach of the necessary institutions for the practice of the rule of law, and their perpetuation made it increasingly difficult for the judiciary to regain some independence. After the autogolpe, when Fujimori purged the courts and curbed the press, he was able to implement tough anti-terrorist laws with little opposition and public dissent.124

The faceless courts contributed to unjust prosecutions and convictions through the following: “the vague definition of terrorism and the disproportionate penalties assigned”, “excessive concentration of powers in the hands of the police”, “the right of defense in faceless courts proceedings [was] severely restricted by lack of adequate access to court files and timely information on sentences and the progress of cases”, “many of the faceless judges [appeared] to lack experience in assessing evidence in a criminal procedure”, “the most severe restrictions on due process [occurred] in

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122 Ibid.
123 Ibid.: 3.
military courts”, “secrecy [was] the rule in faceless court proceedings”. Most of these measures protected the identities of the judges and court personnel and there was no public accountability for the judges involved in trying terrorists. There was no way to identify either corrupt judges or to publicize the efforts of the good ones. These faceless courts show the importance of maintaining an independent and trained judicial system in place in order to properly practice the rule of law and minimize human rights abuses.

In conclusion, the democratic institutions for the rule of law were not upheld under the Fujimori government. Relating back to Chapter 1, Fujimori’s government cannot be considered a constitutional dictatorship because he did not abide by the constitution and he was self-proclaimed. Fujimori used the electoral process to attain sovereignty and, once he was in power, he arbitrarily instituted laws that he believed would better Peru without any constitutional review.

CONCLUSION

This chapter on Peru’s internal conflict with the Sendero Luminoso provides a number of conclusions and lessons about counterinsurgency strategy, and its cost on democracy and the rule of law. First, Peru serves as an example of a new democracy faced with the threat of an ideologically driven insurgency. This was of particular importance, because as civil society in Peru was being asked to recognize party politics and the electoral process as the legitimate means to sovereignty, and the new democratic institutions needed to strengthen in their own time, the Sendero Luminoso

threatened the legitimacy of the regime and attempted to show that violence was still a possible means to power.

Second, the use of non-violent measures in the counterinsurgency policies proved to be more effective at defeating the *Sendero Luminoso* than the violent ones. In addition, these had less of an effect on the trust between the government and the populations under emergency control, and subsequently minimized the cost on vertical accountability. In addition to adopting a winning the ‘hearts and minds’ strategy, it would have been easier to sustain social policies if the Peruvian government had been able to maintain a stable macroeconomic policy.

Third, although I showed that, during the war period, the government attempted to maintain the democratic institutions for polyarchy, the democratic regime remained unstable, and eventually became a delegative democracy. This is an important point to keep in mind. Considering that Fujimori was popularly elected and re-elected in 1990 and 1995 respectively, it is clear that the majority of the population in Peru embraced the idea of a strong executive branch. Much of this is due to historical institutions and context where Peruvian politics had been accustomed to strong centralization of powers. Democracy as a regime was not fully embedded within civil society during the war. Fujimori brought stability in the short-run, albeit detrimental to the democratic institutions in the long run. This might be a lesson to be learned from the Peruvian experience, whereby in a post-conflict state, a delegative democracy (one that should also respect the rule of law) may be an essential step in order for the state to regain stability and return to a more liberal, consolidated democracy. This delegative president, however, should only be allowed to govern for
one term, unless the independent legislative and judiciary branches deem it necessary
for the incumbent to run for a second term. This would avoid eventual democratic
breakdown to authoritarianism.

The cost of counterinsurgency strategy on democracy and the rule of law in Peru was such that, the initial policies employed, such as granting full autonomy to
the military, weakened the democratic institutions and destabilized the regime. This
subsequently led to the need for a stronger executive, and Peru to become a
delegative democracy. In addition, the experience in Peru emphasizes the importance
of having an independent judiciary, especially when dealing with terrorist trials. The
respect for human rights is of utmost importance when trying the suspected members
of the insurgency group. This will ensure a greater trust between civilians and their
government, and can avoid state terror.
Table 1: Citizens’ Evaluations of Electoral Freedom and Fairness (percentages)\(^{126}\)

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>1. There is liberty rather than fear in the expression of opinions here.(^{a})</td>
<td>37</td>
<td>17</td>
<td>34</td>
</tr>
<tr>
<td>2. Elections here have been correct and accessible to all.(^{b})</td>
<td>60</td>
<td>33</td>
<td>20</td>
</tr>
</tbody>
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Sources: Datum 1990 Lima survey; Orellana 1991 El Salvador survey; CEDATOS 1991 Ecuador survey. See appendix 1 for more information about the surveys.

\(^{a}\) Item: "In (Peru/El Salvador/Ecuador) is there fear in the expression of opinions or is there liberty?"

\(^{b}\) Item: "During the last ten years or so, there have been various elections in (Peru/El Salvador/Ecuador). In general, do you think that these elections have been fraudulent and/or inaccessible to all, or have they been correct and accessible to all?"

Table 2: Electoral Turnout in Peru, 1980-90 (all figures except percentages in millions)\(^{127}\)

<table>
<thead>
<tr>
<th></th>
<th>Estimated Potentially Eligible Population</th>
<th>Registered Voters</th>
<th>Actual Voters</th>
<th>Turnout (% of eligible voters)</th>
<th>Turnout (% of registered voters)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Presidential Elections</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1980</td>
<td>9.2</td>
<td>6.5</td>
<td>5.3</td>
<td>58</td>
<td>82</td>
</tr>
<tr>
<td>1985</td>
<td>10.3</td>
<td>8.3</td>
<td>7.6</td>
<td>74</td>
<td>92</td>
</tr>
<tr>
<td>1990(^{a})</td>
<td>11.4</td>
<td>10.0</td>
<td>7.7</td>
<td>67</td>
<td>77</td>
</tr>
<tr>
<td><strong>Midterm Elections</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1980</td>
<td>9.2</td>
<td>6.5</td>
<td>4.6</td>
<td>50</td>
<td>71</td>
</tr>
<tr>
<td>1983</td>
<td>9.8</td>
<td>7.5</td>
<td>4.8</td>
<td>49</td>
<td>64</td>
</tr>
<tr>
<td>1986</td>
<td>10.4</td>
<td>8.3</td>
<td>6.5</td>
<td>63</td>
<td>78</td>
</tr>
<tr>
<td>1989</td>
<td>11.2</td>
<td>9.9</td>
<td>6.3</td>
<td>56</td>
<td>64</td>
</tr>
</tbody>
</table>


\(^{a}\)First round. Turnout was slightly up in the second round.

\(^{126}\) McClintock, *Revolutionary Movements in Latin America: El Salvador's FMLN and Peru's Shining Path*, 111.

\(^{127}\) Ibid., 121.
Chapter 3: Turkey and the PKK

In this chapter, I shall study Turkey’s war against the PKK insurgency, and the tactics employed to obstruct the movement from 1984 until 1999. Turkey is an example of a partial democracy faced with the threat of an insurgency. Turkey’s struggle to acknowledge the Kurdish question and integrate the Kurdish culture into its constitution and Kemalist ideology impeded on its ability to become a consolidated democracy, and serves as an example for my study of the costs of counterinsurgency.

The PKK movement can be considered as an ethno-nationally driven insurgency group. In this case, the focus on identities being divided along ideational lines in the *U.S. Army/Marine Corps Counterinsurgency Field Manual* could not as easily be applied. The Kurds had a tendency to side with the PKK based on a common ethnicity and there was not an undecided middle group that could be persuaded to join either the PKK or the central government. The Kurds in the emergency zones tended to want either to remain neutral or side with the PKK. Turkey did not employ any ‘hearts and minds’ strategies, and I remain dubious as to whether those would have made a difference. In the case of Turkey, constitutional
reform and political dialogue would have been the most effective ways to resolve the Kurdish questions.

I shall specifically assess the costs of the counterinsurgency measures employed to fight the PKK on Turkey’s ability to maintain a democracy and respect the rule of law. I will argue that Turkey’s Kemalist ideology, and the subsequent autonomy of the military in the face of an emergency is the main source for the conflict with the PKK, and until the Kurds are acknowledged as a prominent ethnicity in Turkey, there can be no further democratization in the country. In addition, there must be stronger horizontal accountability from the military to the government to minimize human rights violations.

I will first give a brief historical background on the rise of the PKK, and then I will analyze the government’s response. I will attempt to show that Turkey remained a delegative democracy throughout the war, and did not make many efforts post-conflict to liberalize the political institutions. I will also show that, due to the Kemalist ideology, Turkey could not have respected the adequate political institutions for a polyarchy and the rule of law.

**HISTORICAL BACKGROUND OF THE PKK MOVEMENT**

The Kurds as a distinct ethno-nationalist group, speak Indo-European languages related to Persian, do not associate with the same line of descent as Ottoman Turks, and share their own culture. The Kurds are the largest ethnic group in
the world that does not have a state.¹ There were approximately 11-13 million Kurds living in Turkey in 1997, which accounted for about twenty percent of the total Turkish population. Most Turkish Kurds lived in the underdeveloped southeast region of Turkey and, although Kurdish movements repeatedly arose with the intention of integrating Kurdish culture or political expression into the Turkish state, the leaders of the Turkish Republic repressed these efforts. The PKK grew as a violent expression of the Kurdish frustration in Turkey.

The following is a brief historical account of the origins, the ideology, and the tactics employed by the PKK, and the eventual creation of a violent internal conflict demanding Kurdish cultural rights.

**Origins and Ideology**

The origins and ideology of the Kurdistan Worker’s Party (PKK) are rooted in Marxist-Leninist thought, and stem from a desire for an independent Kurdish nation-state. In fact, the founders of the PKK were inspired by Lenin’s principle of “self-determination of nations,” and believed that Kurds, being the largest stateless population, are entitled to their own nation-state.² In order to understand more clearly the origins and ideology of the PKK it is necessary to explain the exclusion and denial of Kurdish culture from Turkish politics.

With the creation of the Turkish nation-state after the fall of the Ottoman Empire came the idea of standardizing the Turkish citizenry by nationalizing the Turkish language and imposing a secular orientation. According to Ergil, “the Turkish official mentality invariably confuses unity with uniformity.” In the process of democratizing, and striving for nationalism and loyalty to the government, Turkey inadvertently created an internal Kurdish problem. Most of the Kurdish communities were not Turkish speaking, and were consequently excluded from political life. In addition, the government prohibited any form of Kurdish collective expression regardless of how peaceful it was. The Kurdish response became increasingly violent as the number of cultural repressions increased. Öcalan, the leader and ideologue of the PKK, was raised in a poor rural Kurdish community. He, nonetheless, was a dedicated student, and attended the Faculty of Political Science of Ankara University, from which Turkey’s prominent bureaucrats, administrators, and diplomats graduated. He dropped out during the third year because of his political activities and founded the PKK, along with other fellow university students, on November 7th, 1978. His studies of political science increased his sensitivity to the exclusion of Kurdish culture within the Turkish democracy, and believed the only solution was “carving out a Kurdish “motherland” from Turkey to establish an independent nation-state and [using] systematic violence to attain its political objectives.” However, the armed activities did not begin until 1984.

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3 Ibid., 324.
4 Ibid.
5 Ibid., 328.
6 Ibid., 329, 327.
7 Ibid., 328.
There was no particular event that caused the insurgency; rather, it was a developmental and evolutionary process whereby the PKK exploited the central government’s ignorance for the east and southeast regions (where 90% of the population was Kurdish) over time. Both regions were always the most underdeveloped in Turkey and received a negligible share of public and private investments. Moreover, the relative poverty of the regions meant that they were less desirable for government employment and service. In sum, the combination of neglect and poverty, and denial of Kurdish identity led to growing hostility between the Turks and the Kurds; it is precisely this tension that the PKK took advantage of in order to build their insurgency.

**Aims**

Because the PKK based its rhetoric on the poverty, backwardness, and neglect of the region it was able to attract primarily “landless peasants, especially poorly educated and unemployed or irregularly employed young people.” The ideology of the guerrilla group served as a means to unify the poor rural Kurds and give them a sense of brotherhood and hope for emancipation from the Turkish government. In addition, it increased their ability to be a part of Turkish political affairs. In fact, “the PKK leadership thought a nationalist and fundamentalist approach would be more

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10 Barkey, "Turkey and the PKK: A Pyrrhic Victory?," 347.
11 Ibid.
attractive to a broader spectrum of the Kurdish population because the predominant majority of the Kurds were rural, traditional, and religious.”¹³ The PKK used the well-known method of nationalism to rally up the Kurds around the idea of self-determination.

The PKK legitimized its use of violence and armed activities on three arguments: first, it claimed that the Kurds were being colonized by the Turkish state; second, because Kurds were the largest stateless minority in the world, they were entitled to a nation-state; and third, it was just to fight a war against Turkey.¹⁴ Besides the final claim, the PKK had a justifiable case based on the principles of self-determination, and being excluded from a democratic political life. The Kurds were put at a disadvantage in Turkey based on their cultural identity, and as a result were treated unjustly. Hence, although the origins and ideology of the PKK were rooted in a Marxist-Leninist thought for revolution, and self-determination, its aim was the inherent need for recognition of Kurdish people and culture in the Turkish democratic government. In fact, even Öcalan claimed that he “was not a Marxist or a communist but believed in “democratic-socialism”.”¹⁵

From the start, the PKK declared itself supportive of a separate Kurdish state, and it even had pan-Kurdish aspirations.¹⁶ The extent of its aims usually followed the success and context of the insurgency. It began to downplay its Marxist-Leninist ideology towards the end of the Cold War, and began to stress the idea of culture and

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¹³ Ibid., 332.
¹⁴ Ibid., 331.
¹⁵ Barkey, "Turkey and the PKK: A Pyrrhic Victory?," 348.
¹⁶ Ibid.
self-determination. When the Turkish armed forces began their counterinsurgency strategy, the PKK then began to justify their cause on the basis of equal rights for Turkey’s Kurdish citizens, the need for an increase in the dialogue with the state, and the greater democratization of the Turkish institutions. It is clear that the PKK never really had a set aim for their insurgency. It seems as though it emerged with aspirations to get any sort of recognition for the Kurdish people, regardless of the means or the ends.

**Strategy and Power**

The Kurdistan Worker’s Party was able to quickly gain support within Kurdish communities because it provided several vital needs and addressed the social and political cleavages within the community. These were rooted in a remaining feudal system of land ownership whereby the farmers were perpetually dependent on traditional leaders. The socialist aspect of the PKK gave the peasants “not only a cause to struggle for but also hope for a better future, which the Turkish leftist movement could not offer them.” Though peasants in general are known to be easily coercible, and therefore a strong basis for followers of an insurgency group, the PKK actually represented their culture, and wanted to fight for their political and civil rights.

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17 Ibid.
18 Ibid.
20 Ibid.
21 Ibid., 335.
Moreover, the PKK was also able to gain support through the insistence of the Turkish government to deny the Kurdish ethnic identity and cultural rights.\textsuperscript{22} By the mid-1990s, the number of PKK guerrilla forces rose to at least 150,000 people.\textsuperscript{23} Hence, the movement was not solely attractive to peasants based on economic and other social incentives, but rather it gained support from Kurds of all different socio-economic backgrounds based around nationalism. As a matter of fact, “while the rank and file of the PKK were composed of peasants, rural poor, and marginal urban dwellers of Kurdish origin, there were also high school, university students, and graduates in its ranks.”\textsuperscript{24} In addition, many women were attracted to joining the PKK because it gave them a sense of empowerment and emancipation from the traditional role of women. Women comprised close to a third of the movement’s active membership, and women PKK militants committed 11 of the 15 suicide terrorist attacks.\textsuperscript{25}

The PKK often targeted state officials. Because of the centralized nature of the Turkish state, everyone was in some way appointed to a specific position, and state officials were not just governors but also policemen and teachers sent to the Kurdish region.\textsuperscript{26} By assassinating these officials, the PKK hoped to physically disconnect the Kurdish region from the rest of Turkey, and also show that it was strong enough to fight the government and be independent. When schoolteachers

\begin{footnotes}
\item[22] Ibid.
\item[23] Ibid., 336.
\item[24] Ibid., 335.
\item[25] Ibid., 336.
\item[26] Barkey, "Turkey and the PKK: A Pyrrhic Victory?," 349.
\end{footnotes}
were too afraid to come into work, or when policemen feared being out alone at night, the PKK considered that an achievement.  

Due to the tribal background of the founders, it was only natural that there would be a single leader of the movement to personify the group. Abdullah Öcalan was the main founder of the group, and also became the leader. There is both a hierarchical and horizontal organization of the insurgency group. While Öcalan retained political and ideological hegemony, he also delegated operational leadership to paramilitary commanders of various levels and geographic location. In addition, “everyone [was] accountable to Öcalan.” Although having a single leader avoided disagreement at the head of the operation and allowed for a more effective execution of the goals of the movement, it also meant that as soon as the leader was captured the movement would be either stopped or greatly weakened.

**International Context**

The PKK movement could not have grown and matured as it did without a favorable international context. There have been historically close ties between Turkish and Iraqi Kurds, and the PKK used the absence of Iraqi authority in northern Iraq to set up its rear bases there. The mountainous border areas through Iraq, Iran and Turkey created an ideal no-man’s-land for insurgent activities. It was relatively easy for a small armed band to cross the borders, whereas surprisingly difficult for an

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27 Ibid.
29 Ibid.
30 Ibid., 330.
31 Barkey, "Turkey and the Pkk: A Pyrrhic Victory?," 351.
organized army.\textsuperscript{32} The PKK trained most of its militants away from the Turkish army on Kurdish territory in Syria, Iraq and Iran.\textsuperscript{33} It is clear that, without the ability to take refuge in neighboring countries, the movement would not have been able to grow as strongly and quickly as it did.

Support from the Syrian regime proved to be one of the most important sources of success. Öcalan and his lieutenants benefited from the protection of the Syrian security services as they traveled with little restraint between Damascus and the Bekaa Valley in Syrian controlled Lebanon.\textsuperscript{34} This allowed Öcalan to run the PKK on a daily basis while living in a foreign capital, which gave the party a great advantage. In addition to Syria, Iran also played a strong role in supporting the PKK. The worker’s party often used Iranian territory in order to evade Turkish troops.\textsuperscript{35} Both the Syrian and Iranian governments professed their innocence vis-à-vis PKK activities.\textsuperscript{36}

Additionally, the Kurdish diaspora throughout Europe also served as a basis for the support of the PKK global network. According to Barkey, Kurds living throughout Europe brought the PKK three significant advantages: a base of recruits, a base for financing the movement, and a base for petitioning European governments.\textsuperscript{37} In fact, even though the PKK organization was illegal in most countries throughout Europe, there were organizations covertly organized by the PKK that were allowed to supply Kurdish workers with a place to meet and to stay in touch with each other. The

\begin{itemize}
\item \textsuperscript{32} Ibid.
\item \textsuperscript{33} Ibid.
\item \textsuperscript{34} Ibid.
\item \textsuperscript{35} Ibid., 352.
\item \textsuperscript{36} Ibid.
\item \textsuperscript{37} Ibid.
\end{itemize}
PKK used the freedom of speech in these European countries to its advantage, and through these PKK-related organizations could organize mass demonstrations to influence European political opinion. Because Turkey became a potential candidate for the EU at the turn of the century, it became increasingly susceptible to judgments about their human rights abuses against the Kurds.

Now that I have presented a brief historical account of the rise of the PKK insurgency, I can look at the government’s response and its costs on democracy and the rule of law.

**GOVERNMENT RESPONSE**

Turkey’s counterinsurgency victory against the PKK can be described as a pyrrhic victory where, although Öcalan was captured in February 1999 and Kurdish violence ceased, or at least greatly diminished, the victory came at a great cost for the Turkish government in terms of democratic consolidation, human rights abuses, and its recognition internationally. Moreover, although the PKK may have been dissolved, the Kurds as an ethno-nationalist group is still present, and the Turkish government still faces demands to integrate the Kurdish minority into the Kemalist ideology. In this section of the chapter, I will give an overview of the government response to the PKK. There was little to no effort from the government at trying to approach the conflict through peaceful methods; in fact, the ideology of the tactics

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38 Ibid.
was rooted in the need to repress the uprising, instead of accepting the Kurdish question as a reality of Turkish society.

Although the violence that arose with the growth of the PKK in the southeast could not have been predetermined, it nonetheless emerged as intra-ethnic and state-citizen relations were weakening. The Kemalist ideology (as discussed briefly in the historical overview of the PKK, and more extensively in my discussion of Turkish democracy) caused the state to have a slow reaction to the insurgency.\(^\text{40}\) There was never a real desire from the government side to make amends with the existence of Kurdish culture, and there was little doubt that the state would fight violence with violence as opposed to adopting a ‘winning the hearts and minds’ strategy.\(^\text{41}\) In the end, democracy rooted in Kemalism served as a driving force for the rise of the insurgency and as a justification for the central government to resort to violence in fighting against the PKK.

The Turkish government spared no military effort or expense at defeating the PKK. According to the U.S. State Department, the estimated number of Turkish government forces in southeastern Anatolia was 250,000 to 300,000 men: 140,000 to 150,000 army personnel; 10,000 from the air force; 40,000 to 50,000 gendarmes, including 10,000 commandos operating in the elite units of the “special forces”; 40,000 members of the Turkish national police; and 50,000 militiamen designated as “village guardians.”\(^\text{42}\) In addition the military operations included “infantry units and parachutists, mechanized divisions, heavy artillery, tanks, helicopters, and fighter

\(^\text{40}\) Barkey, "Turkey and the PKK: A Pyrrhic Victory?,” 355.
\(^\text{41}\) Ibid.
planes.”\textsuperscript{43} In comparison, as I said earlier, the PKK’s force did not exceed 150,000 men. However, as the Turkish army grew and continued its strikes, the PKK’s supportive environment grew, and repression from the government aided PKK mobilization.

By 1992, following the Gulf War, the PKK’s presence in the mountainous areas was strong, and some PKK cadres were able to make inroads into southeastern cities such Sırnak, Lice, and Cizre.\textsuperscript{44} There was a PKK network set up throughout villages in southeastern areas, and in particular in villages along the Iraqi border and in Diyarbakır province. The Turkish security forces lost their monopoly of control in the area. Throughout cities, the PKK presence was seen through mass demonstrations, flag-waving, commercial strikes and political meetings. It is clear that the PKK was popular and powerful throughout the southeast.\textsuperscript{45}

In mid-1992, however, the Turkish military reorganized their strategy in the southeast, and launched an urban offensive against the PKK. There were an overwhelming number of troops in the region, both from the Jandarma (gendarmes) and the military, and the security forces took on a response to the PKK that was overpowering.\textsuperscript{46} In fact, “Turkish forces took advantage of PKK provocations to unleash indiscriminate barrages of heavy weapons [fired] against the urban population and buildings,” and the “urban areas were rendered uninhabitable,” which

\textsuperscript{43} Ibid.
\textsuperscript{45} Ibid., 21.
\textsuperscript{46} Ibid.
led to thousands of Kurdish civilians to flee their homes.\textsuperscript{47} It is clear that the Turkish army made little effort to try to differentiate the PKK from Kurdish civilians. In fact, the army tended to identify all things Kurdish with the PKK, and it is not a surprise that the PKK’s support was constantly growing throughout the conflict.

In 1992, the security forces also changed their rural strategy. Prior to 1992, the Turkish forces attacked in response to provocation and had remained mainly in central bases and strongholds, and only moved into the mountains when the insurgents attacked them. In 1992, however, the Turkish army adopted a “regional defense strategy,” where the southeastern region was divided into zones of responsibility. In these zones, individual units were required to patrol a square on the grid, and security forces were on patrol in the mountains for extended periods of time.\textsuperscript{48} Through this new “regional defense strategy” the military was hoping to restrict the PKK’s freedom of movement, as well as get in closer contact with the guerrillas. In addition to the assigned patrolling, the new strategy created the ‘no-go zones.’ These were mountainous areas that were declared off-limits by the military regardless of whether they were inhabited or not. The security forces were given the right to shoot at anyone within these ‘no-go zones,’ whether civilian or guerrilla.\textsuperscript{49}

It was particularly difficult to design a counterinsurgency strategy for the mountainous zones in the southeast, because “controlling the thousands of individual villages would require far more troops, helicopters and resources than the Turkish

\textsuperscript{47} Ibid.
\textsuperscript{48} Ibid., 22.
\textsuperscript{49} Ibid.
state was willing to invest.”\textsuperscript{50} Instead, the security forces either eradicated villages or strengthened the “village guards.” Both of these solutions had enormous implications for human rights abuses.

The village evacuation and destruction strategy to deny the PKK logistical support has led to the displacement of “some two million villagers, who have flooded into slums of Turkey’s major cities and towns.”\textsuperscript{51} By July of 1995, according to the office of the Governor of the southeastern emergency rule area, 2,664 villages and hamlets had been partially or fully evacuated.\textsuperscript{52} According to the Human Rights Foundation of Turkey, 1,000 villages were destroyed or evacuated in 1994 alone.\textsuperscript{53} I will return to this discussion of forced displacement of the Kurds in the southeastern region when I am specifically assessing the costs of the counterinsurgency strategy on human rights violations.

The strengthening of the “village guard” system also disregarded human rights standards. In theory, this strategy is fairly common in counterinsurgency when security forces are “unable to maintain a presence in all villages at all times, give local people weapons so that they can defend their own homes against PKK attacks.”\textsuperscript{54} In practice, however, the system of village guards led to forced conscription, intimidation, bribery and incitement to commit human rights abuses.\textsuperscript{55}

\textsuperscript{50} Ibid.
\textsuperscript{51} The figure comes from Akin Birdal, Chairman of the Turkish Human Rights Association, supplied to Human Rights Watch during an August 1994 interview. The estimate is based on population data from census reports.
\textsuperscript{52} Ron, \textit{Weapons Transfers and Violations of the Laws of War in Turkey}, 20.
\textsuperscript{54} Ron, \textit{Weapons Transfers and Violations of the Laws of War in Turkey}, 25.
\textsuperscript{55} Ibid.
Although the Turkish authorities thought the village guard system would reduce PKK access to civilian population, the strategy was only partially successful. Through financial incentives, the officially recognized number of village guards increased from 5,000 in 1987 to 67,000 in 1995. However, due to brutal PKK retaliations against village guards and their families, in addition to the politicization of the Kurds, the spread of the village guard system was restricted in the southeastern region. Many declined to work as village guards either because they supported the PKK, or they just did not want to support the Turkish state; and many declined to join for fear of PKK retaliation.

In order to incite villagers to join the village guards, the security forces gave them the choice of either joining or being forced to leave their homes. Some village tribal chiefs or local troublemakers accepted to join the guards in order to use state-issued weapons to settle their own feuds. These village guards often appeared as “forces operating with a government license for impunity” where there is a large potential for abuse due to their paramilitary status, uneven command-and-control, and the governments failure to investigate alleged abuses. In addition, the strong reliance on these village guards, and their status with respect to the PKK, left no middle ground of neutrality for civilians. If they did not join the village guards, then they were considered disloyal to the state and a member of the PKK. If they did join the village guards, PKK militants viewed them as traitors.

56 Ibid.
57 Ibid.
58 Ibid., 26.
59 Ibid., 26.
The government’s responses to the PKK insurgency had some long term consequences for Turkey. First, the state was in violation of its international commitment to the laws of war. Second, the adopted counterinsurgency strategy impaired the state’s desire to be viewed as a liberal democracy. And finally, the gross abuses of human rights have led to condemnation from the West. I will take a closer look at these consequences in the following section.

COST OF COUNTERINSURGENCY STRATEGY ON TURKISH DEMOCRACY AND THE RULE OF LAW

In assessing the costs of counterinsurgency policies on democracy and the rule of law in Turkey, I am using the definitions in my introduction as a theoretical framework for the analysis. I will first focus on these costs during the war against the PKK, and then I will assess the costs post-insurgency.

To assess the costs of counterinsurgency strategy on democracy, I shall first base my analysis on Dahl’s six political institutions that are necessary for a polyarchy: elected officials, free, fair and frequent elections, freedom of expression, alternative sources of information, associational autonomy, and inclusive citizenship; and then I will use Schedler’s study of democratic consolidation to assess the stability of the Turkish democratic regime.

To assess the costs on the practice of the rule of law, I will first look at the separation of powers and horizontal accountability; second, I will assess the level of proportionality of the powers within the executive; third, I will assess the level of vertical accountability and transparency of governmental affairs; and finally, I will analyze the independence of the judiciary.
As I expressed in my introduction, although in theory human rights are in some ways in opposition to democracy (individualistic vs. the collective), in practice the protection and promotion of human rights can help deepen democracy. Democracy is important for the protection and promotion of fundamental human rights, in particular in the protection of the rights of racial, ethnic or religious minorities. Often times, these minorities challenge the very authority and sovereignty of the state through claims of their own nationhood. Conversely, states often times resort to the repression of their minorities to protect their sovereignty and acclaim their authority.60 This tension between the majoritarian state and its minorities can often lead to an increase in the sense of identity of the minority, and express itself through violence against the state, and lead to human rights violations from both sides.61 This was clearly the case for Turkey and the Kurdish minority, where the Kurdish question “impedes the implementation of democratic and human rights reforms, while its expenses impact negatively upon the economy,” and Turkish foreign policy.62

Another point I discuss in chapter 1 is the idea that, under some international human rights agreements, the state can take measures to restrict secondary human rights during a conflict. In addition, “states are given the right [under international law] to take necessary measure to deal with situations which threaten their

62 Gunter, "Ocalan's Capture as a Catalyst for Democracy and Turkey's Candidacy for Accession to the European Union," 35.
sovereignty." The main issue is that there is no real efficient practice of checks and balances regarding human rights abuses in protecting the sovereignty of the state. Although non-governmental organizations can help in the protection and promotion of human rights, these do not have sufficient power over the state on human rights issues. I am assessing the costs of counterinsurgency on democracy because these checks and balances on human rights abuses are more easily managed under such a regime.

Democracy and the Rule of Law During the War (1984-1999)

Democracy

Despite interruptions of the democratic regime by three periods of military rule in 1960-61, 1971-73, and 1980-1983, Turkey has been a developing democracy since the establishment of the Republic of Turkey in 1923, after the fall of the Ottoman Empire. Mustafa Kemal Atatürk founded Turkey as a modern nation state after the fall of the Ottoman Empire at the end of World War I. The Kemalist ideology stemmed from Mustafa Kemal’s six principles of nationalism, served as the foundation for modern Turkey and was at the core of Turkish government policies. Both the Soviet and French models inspired the ideology and led to a centralized government and a secular society. The six principles are republicanism, secularism, nationalism, populism, statism and revolution. An important point in the Kemalist

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64 Rouleau, "Turkey: Beyond Atatürk," 70.
65 Ibid.
ideology is the assertion that “the military has both the right and the responsibility to intervene in affairs of state, when absolutely necessary in order to guarantee the system’s continuance.”\textsuperscript{67} Atatürk believed that maintaining a balance of the national identity was crucial in preserving peace and avoiding the ills of the Ottoman Empire such as weakness due to “cultural fragmentation, suspicion of new ways, and religious superstition.”\textsuperscript{68}

Since the establishment of the Republic of Turkey, the Kemalist ideology underlying the Turkish constitution did not reflect the ethnic and religious realities of the state. Starting in the 1930s, Turkish policy was rooted in the denial of the mere existence of Kurds in the country, and all demonstration of Kurdish culture was forbidden.\textsuperscript{69} Although, clearly this policy did not face the realities in the primarily Kurdish southeast regions, it was nonetheless perpetuated throughout the second half of the twentieth century. After the Atatürkist revolution in the late 1920s, when Turkey not only developed a very centralized state apparatus, but also maintained its ideological state, the Kurds had little if no voice in policymaking. This state ideology is known as Kemalism: it is a “mixture of secularism and nationalism which is at the heart of most of Turkey’s major policy preoccupations.”\textsuperscript{70} As a result, the ruling elite used the idea of secularism and nationalism to modernize Turkish politics and bring it up to speed with the rest of the Western world without leaving room for dissent.

\textsuperscript{67} Paul J. White, \textit{Primitive Rebels or Revolutionary Modernizers?} (Zed Books, 2000), 130.
\textsuperscript{68} Gunter, \textit{The Kurds and the Future of Turkey}, 6.
\textsuperscript{69} Barkey, "Turkey and the PKK: A Pyrrhic Victory?," 353.
against the ideology of the state. Religious reaction and Kurdish nationalism was what the government feared the most from then on.\textsuperscript{71}

The central government had always been aware of the possibility of ethnic violence based on the Kemalist ideology, and took vigilant measures to suppress it. Kurds were rarely mentioned in public discourse or in the press.\textsuperscript{72} There was a general ‘Turkification’ of the state to the point that the government prohibited the Kurdish language, and replaced Kurdish place-names into Turkish ones.\textsuperscript{73} But the resources of the state were insufficient to really make Turks out of Kurds. In fact, at the time of the PKK insurrection many Kurds still did not speak enough Turkish to be effectively functional in civil society.\textsuperscript{74} In the end, from the point of view of the central government, there was a tension between this distrust of the Kurdish population for fear of ethnic uprisings and the official system of belief that everyone was a Turk.

In terms of the Turkish political culture, the state had a distinct identity from its people and was above everything and everybody.\textsuperscript{75} The Turkish state could be described as transcendental where people do not have rights but rather duties, services and obligations towards the state.\textsuperscript{76} The transcendental state was institutionalized around the set of static norms, based in Kemalism, which are imposed upon society, and must be protected from the destructive activities of the people. Moreover, the

\textsuperscript{71} Barkey, "Turkey and the PKK: A Pyrrhic Victory?," 354.
\textsuperscript{72} Ibid.
\textsuperscript{73} Ibid.
\textsuperscript{74} Ibid.
\textsuperscript{75} Kiliç, "Democratization, Human Rights and Ethnic Policies in Turkey," 91.
\textsuperscript{76} Ibid., 92.
“Turkish army, as the guardian of the state, [believed] that everything, including human rights and freedoms [was] expendable in order to safeguard the state.”

Assessing Polyarchy

It is difficult for me, as a student in a western liberal arts college, to fully comprehend Turkish democracy within its Kemalist tradition. The idea of the state being above the people is particularly puzzling, and that “individual freedoms can be protected to the extent that the will and the sovereignty of the state are maintained.”

Thus, Kemalism limits democratic ideas, policies, etc. This is the most contradictory point from my western perspective where I see democracy as rooted in a social contract based on the general will of a society. This social contract will guide the state and its actors in governing the society. I perceive the state and the people as being, in theory, one and the same, and democracy being the sovereignty of the people. Nonetheless, I am applying Dahl’s criteria for the necessary institutions of a polyarchy.

Turkey, in fact, had a functioning electoral democracy, in the sense that governments were regularly elected, and left peacefully in compliance with an electoral process established by the constitution. Freedom House describes Turkey as a partially free democracy throughout its war against the PKK insurgency. During this time period, Turkey held five parliamentary elections, one every four years.

According to the Institute for Democracy and Electoral Assistance, the voter turnout

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77 Ibid., 93.
78 Metin Heper, The State Tradition in Turkey (Beverley :: Eothen, 1985), 131.
for these elections was 92.27% in 1983, 93.28% in 1987, 83.92% in 1991, 85.1% in 1995 and 87.09% in 1999. 80 Elections were frequent, and considered relatively free and fair. 81 In addition, Turkey upheld the political institution of elected officials.

These numbers, however, do not take into consideration the southeastern emergency zones that were governed by the military. The Kurds in these emergency zones did not have the same political and civil rights as the rest of the country and, although Turkey held five parliamentary elections that were fair and free, a fraction of the country was not under democratic rule, and Turkey cannot be considered to have inclusive citizenship during this time period.

While the Turkish press was one of the most open in the Middle East, and included a large spectrum of views from the far left to Fundamentalist Islamist and proto-fascist nationalist, it nonetheless remained restricted on the Kurdish topic because it was an issue of national security. 82 In fact, although some columnists wrote about the Kurdish problem, they avoided criticism of government policies for fear of being viewed as separatists. The state had control over the press, where the papers could, in principle, print what they wanted, but could also later be reviewed in the courts for revealing national secrets or for publishing separatist propaganda.

According to Helsinki Watch, members of the press were continually “harassed, threatened, beaten, detained and tortured. Reporters [were] charged with the crimes of

82 Barkey and Fuller, Turkey's Kurdish Question, 122.
insulting the president, criticizing the military or public prosecutors.”

Although the press was technically free, most publishers censored their publications for fear of government sanctions. In the end, one might argue that Turkey did have alternative sources of information, however, within the limits defined by Kemalism and restricted by the fear of government sanctions.

Although there was no Kurdish ethnicity-based political party until the mid-1990s, Kurds had been active in all political parties and well represented in parliament. Both the Constitution and the Political Parties Law proscribed ethnic parties, and the Constitutional Court banned the HEP (Peoples’ Labor Party), a Kurdish nationalist party in 1993. Similarly, the Court also denied legal status to the HEP’s successor, the Democracy Party: its deputies were taken out of parliament and eight were prosecuted for conspiring against the Turkish state in the summer of 1994. The HADEP was another successor to the HEP, and was an ethnic Kurdish nationalist party that ran in both the 1995 and 2002 elections. It was considered to be an extreme-left party with Marxist rhetoric with an emphasis on ethnic Kurdish identity and related issues. The party never entered parliament. I will discuss at greater length the Turkish political party system in the following section on democratic consolidation, however, for the purpose of my analysis of polyarchal

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85 Kubicek, Turkey’s Kurdish Troubles: An Intractable Conflict? , 11.
86 Ibid.
88 Kubicek, Turkey’s Kurdish Troubles: An Intractable Conflict? , 11.
democracy during the war, I do not consider that the Turkish democratic regime allowed association autonomy.

In conclusion, Turkey’s democracy did not fit the standards for a polyarchal democracy. Despite the highly institutional electoral process, elected officials, and frequent, relatively free and fair elections, Turkey did not have the proper political institutions for freedom of expression, inclusive citizenship, and associational autonomy. The most apparent restriction on Turkey’s ability to have a polyarchal democracy is the strength of the Kemalist state, and particularly the effects of the ideological state on the Kurdish question. I will analyze this at greater length in my discussion of democratic consolidation.

**Democratic Consolidation**

The state of Turkey’s democracy during the war can be considered as a delegative democracy marked by a personalistic ruling style where the party leaders as individuals seemed more important than the party itself. The denial of the Kurdish ethnicity and the gross human rights abuses directly impeded on Turkey’s ability to deepen its democratic institutions. Though there did not appear any reason for authoritarianism to return to Turkish politics, there was equally little reason to move toward a more consolidated democracy. However, Turkey’s democracy during the war can be neither considered stable nor consolidated.\(^89\) Turkey is an interesting example in that, although it wanted to be considered a liberal democracy in the international community, and eventually join the European Union, it was unwilling to

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\(^89\) Ozbudun, "Turkey: How Far From Consolidation?," 123.
relax its policies towards the Kurdish minorities. In fact, according to Turkish officials, “there [was] not a Kurdish problem in Turkey but it [was] instead a problem of terrorism which [threatened] the ‘indivisible unity’ of the Turkish state.”

Democratic consolidation is similar to the idea of democratic political institutionalization, where “the formal and informal rules of the [democratic] regime are widely understood and accepted, and thus heavily influence the behavior of the major political actors.” Therefore, a lack of political institutionalization impedes on democratic consolidation. In Turkey, however, the excessive institutionalization also constrained the potential for a consolidated democracy, in the sense that the strong, centralized, and bureaucratic state of the Turkish Republic was a legacy of the Ottoman Empire and this strong-state tradition restrained the balance of power in the relations between the state and civil society.

Turkey has also had a highly institutionalized political party system. However, the military regime between 1980 and 1983, manipulated the electoral laws in order to overhaul the party system and decrease political fragmentation. With hopes of eliminating the ideologically driven minor parties, a new statute required a 10 percent national threshold and a constituency threshold that varied from 14.2 to 50 percent. The 1983 elections had just three parties, and all were licensed by the military.

By 1995, despite the high national and constituency thresholds, the political party system was more fragmented than ever. There was a weakening of the moderate

91 Ozbudun, "Turkey: How Far from Consolidation?," 124.
92 Ibid.: 125.
93 Ibid.: 127.
94 Ibid.
center-right and center-left, with a combined vote share of 38.9 percent. Moreover, the weakening of the moderate-center parties was countered by an increase in extremist vote shares (about one third of the total vote). In fact, the Islamist Refah party won 21.4 percent of the votes, the ultranationalist NAP got 8.2 percent of the votes, and the Kurdish-nationalist People’s Democracy Party (HADEP) won 4.2 percent of the votes.\footnote{Ibid.: 129.} While the latter two parties were below the national threshold and, as a result, did not have representatives in parliament, these percentages showed that Turkish democracy was facing a systemic challenge. It is important to note, however, that all these parties viewed democracy and the electoral process as the only legitimate way to power.

In conclusion, although democracy was neither consolidated nor stable in Turkey, it was nonetheless enduring. The rise of the PKK did not present itself as a threat to the life of the delegative democratic regime. The Kemalist tradition and the policies towards the Kurds, however, directly impeded on the ability to deepen democracy, and move away from delegative democracy and towards a liberal democracy.

**Rule of Law**

Addressing the topic of the rule of law in Turkey is yet another difficult task as a student of western liberal arts. Turkey is an example of a country that had rule by law as opposed to the rule of law, where the state could act above the law. Technically, according to Turkish law, the government’s response to the insurgency
was considered constitutional in the sense that the PKK posed a threat to the state, and the military had the right to intervene when and how it saw fit. Perhaps, this is specifically the issue with democracy in Turkey: its constitution does not provide the state with the ability to establish liberal democratic institutions. In addition, the role of the military in political affairs and as the guardian of the state remains too strong for an aspiring liberal democracy (I am writing in the present tense here because this is still true for Turkish politics today). It is clear that the government, during the war, could not be considered fully accountable to its citizens if the government itself refused to acknowledge the existence of a problem with the Kurdish population. In addition, there was a tendency to equate all things Kurdish with the activities of the PKK. However, the Turkish judiciary remained strong and independent. In fact, the Constitutional Court was “one of Europe’s strongest in terms of both its scope of competence and its independence.” In this section, I would specifically like to address the role of the military.

*The Military*

The military had traditionally been the guardian of the state since Atatürk, and served as the official preserver of Kemalism and balance within the state. Hence, it was natural that the military played a strong legislative and executive role in shaping policy in the southeast region. Prior to 1993, the government under Özal had some degree of involvement in drafting counterinsurgency policies. Since Özal’s death (1993), however, the civilian government granted full responsibility to the military in

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96 Ibid.: 126.
97 Barkey and Fuller, *Turkey's Kurdish Question*, 139.
developing and applying policies towards the southeast in general.\textsuperscript{98} The military had full control over the counterinsurgency strategy, and Turkey as a democracy lost any accountability between civilians and the armed forces.

The effectiveness of the military in fighting the insurgency increased significantly with time and experience and it was able to adapt to fighting an unconventional war.\textsuperscript{99} According to the Human Rights Watch Arms Project, there were approximately 300,000 security forces in the southeast, of which 140,000 to 150,000 were regular army troops, 50,000 were members of the Gendarmerie, 40,000 are police and 67,000 are village guards.\textsuperscript{100} Moreover, there was a significant development in intelligence and mobility.\textsuperscript{101} Saturating the region with these troops created the reality that “the war [had] become an army responsibility.”\textsuperscript{102}

In conclusion, in granting the military full autonomy over the emergency zones, the government was not technically breaching the rule of law. However, it shows that Turkey did not have the adequate institutions for the rule of law in a democracy in terms of horizontal accountability from the military to the government and lacked a system of checks and balances amidst the governmental institutions. In addition, the military did not respect the laws of war and international human rights laws in these emergency zones.

\textsuperscript{98} Ibid.
\textsuperscript{99} Ibid., 140.
\textsuperscript{100} Ron, \textit{Weapons Transfers and Violations of the Laws of War in Turkey}, 44.
\textsuperscript{101} Barkey and Fuller, \textit{Turkey's Kurdish Question}, 140.
Violation of the Laws of War

The International Humanitarian Law (Laws of War) sees a distinction between what is considered an “international” versus an “internal” armed conflict. The war in Turkey should be considered an internal armed conflict because no state had declared war against Turkey. Moreover, the laws of war govern the conduct of state armies and guerrilla groups fighting in an internal armed conflict. These laws are distinct from human rights law and include the following: the four 1949 Geneva Conventions; the two 1977 Protocols to those Conventions; and the customary laws of war.103 These laws are aimed at the regulation of all armed conflict.

The laws of war require that, in both international and internal armed conflicts, combatants and non-combatants be distinguished.104 This is particularly difficult when fighting a guerrilla war. The use of informers, civilian-militia, paramilitaries, etc…made it increasingly difficult to draw the line between those actively involved in the conflict, and those simply living in the emergency zones. In Turkey, both the PKK and the government used the fine line between combatant and civilian to their advantage. The Turkish military launched attacks that affected large portions of the civilian rural population, forced displacements and fired indiscriminately at civilians. The PKK, on the other hand, attacked the families of village guards.105

As a signatory of the Geneva Combatants, Turkey was explicitly tied to all of its requirements, including Common Article 3, which was the only requirement

103 Ron, Weapons Transfers and Violations of the Laws of War in Turkey, 160.
104 Ibid., 161.
105 Ibid., 162.
pertaining directly to internal war. Article 3 “[imposed] fixed legal obligations on the parties to an internal conflict to ensure human treatment of persons not taking an active role in the hostilities.”\textsuperscript{106} This included the protection of all civilians in the emergency zones and members of both the government and the PKK who surrendered, were wounded, sick or unarmed, or were captured.

The laws of internal war, however, did not provide the status of ‘prisoner of war’ when a combatant was captured. Moreover, there were no ‘combatants’ privileges: “the legal waiver provided by the Geneva Conventions allowing soldiers in international armed conflict to kill or injure their enemies without being liable for criminal prosecution.”\textsuperscript{107} The PKK were subject to domestic laws and criminal prosecution. However, when trying suspected PKK members, Turkey should have abided by international human rights law and granted PKK members a fair trial. Turkey severely violated international standards of due process, and by torturing or executing captured combatants, Turkey violated both international human rights and the laws of war.\textsuperscript{108}

\textit{Human Rights Abuses}

Since 1993, due to increase fighting by both PKK and government armed forces, civilian displacement from the southeastern region of Turkey increased. The military evicted villagers and often times destroyed their homes. These policies were

\textsuperscript{106} Ibid.
\textsuperscript{107} Ibid., 163.
\textsuperscript{108} Ibid., 164.
implemented in the hopes of decreasing the PKK’s logistic base of support.\textsuperscript{109} Security forces were mainly targeting villagers who did not accept to join the village guards, or those who brought food and shelter to PKK combatants, or suspected of doing so. The Turkish Human Rights Minister Azimet Köylüoğlu commented on the evacuation of villages in the Tunceli province, and called the burnings and displacements “state terrorism.”\textsuperscript{110}

By October 1994, there were close to two million displaced people in the southeastern region.\textsuperscript{111} Most of the displaced villagers were not permitted to bring their belongings with them. They fled to larger cities in the southeast or to Diyarbakir, the largest southeastern city. Some even fled to the Western cities of Turkey such as Istanbul, Mersin, Adana, and Antalya, where they lived in “extreme poverty working as day laborers in construction or as vendors.”\textsuperscript{112} In fact, the population in Diyarbakir grew from 300,000 people to 900,000 throughout the conflict and similar population growths were seen in Adana and Mersin, and according to police official in Adana, “roughly forty to fifty trucks full of displaced arrived in the city every morning.”\textsuperscript{113}

Although Common Article 3 of the Geneva Convention does not explicitly address the issue of displaced civilians, Protocol II of 1977 to the 1949 Geneva

\textsuperscript{110} Ibid.
\textsuperscript{111} Ibid., 8.
\textsuperscript{112} Ibid., 10.
Conventions provides authoritative guidance on displacement.\textsuperscript{114} According to the Article 17 of Protocol II:

1. “The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of civilians involved or imperative military reasons so demand.”\textsuperscript{115}

2. “Should displacement have to be carried out, all possible measures shall be taken in order that the civilian population may be received under the satisfactory conditions of shelter, hygiene, healthy safety, and nutrition.”\textsuperscript{116}

Turkey violated both criteria of Article 17 of Protocol II. The political motives cannot justify military actions, especially in the displacement of a population in order to “exercise more effective control over a dissident ethnic group.”\textsuperscript{117} Civilians were being displaced for refusing to join the village guards, and as a result of military operations in a village.

In addition to the gross numbers of forced displacements, the Turkish security forces were also killing and disappearing those suspected of illegal activity related to the conflict with the PKK. Instead of capturing, questioning and indicting people who were suspected of being disloyal to the state, the security forces killed them in house raids. Therefore, the military played the role of “investigator, judge, jury and executioner.”\textsuperscript{118} Often times, there was no evidence that suspects lived in these houses, and while generally police asserted that such measures were taken in response to provocation, usually no police were wounded or killed during these raids,

\textsuperscript{114} Ibid.: 11.
\textsuperscript{115} Ibid.
\textsuperscript{116} Ibid.
\textsuperscript{117} Ibid.
suggesting that the killings were deliberate. These extra-judicial executions were in violation of both international human rights law and the laws of war, and in carrying out these deliberate executions the Demirel administration was not keeping its promise to a “state law based on human rights and freedoms.”

Moreover, the Turkish police shot and killed peaceful demonstrators. In fact, in 1992 alone, more than a hundred demonstrators were killed. During the celebration of the Kurdish New Year in March 1992, government troops opened fire and killed 91 demonstrators in three towns in the southeast. The killings of peaceful demonstrators also took place in the Western cities of Turkey in 1992, and no one in the military was charged for these deaths. These killings were once again in violation of international human rights laws in addition to other international laws and standards. They were also an example of the prohibition of associational autonomy in Turkey’s democracy.

In both western and southeastern Turkey, torture was used in police interrogation centers on suspects of both political and ordinary crimes. Horrifying torture techniques were regularly used such as:

Suspension by the arms or wrists, which are often first tied behind the back of the naked, blindfolded victim; electric shock to the genitals and other sensitive parts of the body; falaka (beating the soles of the feet until they swell and bleed, sometimes making it impossible for victims to stand); rape, both vaginal and anal, sometimes using truncheons or even gun barrels; shooting highly-pressurized water at victims who are sometimes constrained in rubber tires; severe beatings with sticks and truncheons; pulling victims by the hair, sometimes pulling out clumps of

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119 Ibid.
120 Ibid.
121 Ibid.: 8.
122 Ibid.
123 Ibid.
hair; pulling hair from victims’ beards or mustaches; death threats and threats to kill family members; placing victims on blocks of ice; forcing victims’ heads into excrement; placing victims in small cells with attack dogs who attack and bite them.\textsuperscript{124}

I do not deem it necessary for me to comment on this list of torture mechanisms. It is clear that Turkish police and armed forces violated international human rights laws through the use of torture in interrogation facilities.

**Democracy and the Rule of Law Post-1999**

**Democracy**

At the December 1999 Helsinki meeting, the European Union (EU) finally decided to accept Turkey’s candidacy for membership. Turkey had first applied for candidacy in 1987, but had been rejected on the grounds that its democratic and economic institutions and practices were not adequate enough for EU standards.\textsuperscript{125} The Helsinki decision required Turkey to comply with the so-called Copenhagen rules, which asked “EU hopefuls to build Western-style democratic institutions guaranteeing the rule of law, individual rights, and the protection of minorities.”\textsuperscript{126} Although the Copenhagen rules do not specifically use the term ‘Western-style’ democracy, the delegative Turkish democracy was inadequate for EU membership. The implementation of the Copenhagen rules in Turkey basically demanded a re-draft of the constitution. In fact, Sami Selçuk, the chief justice of Turkey’s highest court of appeal, claimed that: “90 articles of the constitution should be canceled or amended in

\textsuperscript{124} Ibid.: 16.  
\textsuperscript{125} Eric Rouleau, "Turkey's Dream of Democracy," *Foreign Affairs* 79, no. 6 (2000): 100.  
\textsuperscript{126} Ibid.: 101.
order to comply with EU rules and promote democratization.” Thus, in the same year that the Turkish military captured Öcalan and put an end to the violent conflict with the PKK, the government was also faced with the challenge of democratization to the peril of its Kemalist ideology.

Turkey’s candidacy for the EU membership brings in an interesting dimension of international pressure to my study of the costs of counterinsurgency strategy on democracy and the rule of law in the sense that, the need for a more consolidated democracy and a more transparent practice of the rule of law was not only a domestic request and pressure on the Turkish government, but also an international one. I would argue that these international pressures, in fact, were more effective than domestic ones. Being a member of the EU, where the members were primarily Western European democracies was actually in line with one of the main goals of the Kemalist ideology. Kemal hoped to build a truly modern state that could some day be on par with its European neighbors. It would seem arguable that given this chance of being a potential member of the EU, the Turkish state would consider revamping its constitution. Despite the efforts toward a more liberal democracy, the Kurdish question still remained unresolved and shifted from the military sphere to the social and political spheres.

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127 Ibid.: 105.
Assessing Polyarchy

In 2002, the Islamist-leaning Justice and Development Party (AK Party) won a majority of the votes in the Turkish National Assembly elections. Although this was a step forward in terms of having a minority party win such a large proportion of the votes, this did not have much impact on the Kurdish issue. Since the 2002 elections, the AK has adopted two strategies towards the Kurdish problem: first, “postpone the issue until the 2007 elections to avoid criticism from Turkish nationalist grass-roots groups and thus to avoid potential conflict with the military,” and second, “transfer the problem to the EU.”

Although the AK agreed with the EU’s recommendations to reform the constitution of the Republic and empower local municipalities, it still wanted to maintain its power in the Parliament and avoid dissent with respect to the Kurds.

In assessing polyarchy post-war I would like to focus mainly on the freedom of expression and the press to show that, despite the efforts of the Turkish governments post-war to deepen democracy and meet the EU criteria, the democratic regime was still restricted in its treatment of the Kurdish issue.

According to the Turkish Human Rights Association: “Turkish law and regulations [contained] more than 300 provisions constraining freedom of expression, religion, and association.” Many of these laws were imposed after the 1980 military coup, and still remained in 2002. Individuals in Turkey still faced

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130 Ibid., 185.
131 Ibid.
prosecution and prison terms for the use of forbidden minority languages or expressing an opinion on a taboo subject. Despite the pressure from the EU to change Turkish policy towards freedom of expression, the government approached them with legislative half-measures, which brought little change.\textsuperscript{133}

Article 312 of the Turkish criminal code “[imposed] three-year prison sentences for incitement to commit an offence and incitement to religious or racial hatred.”\textsuperscript{134} However, the Turkish courts [had] a very skewed opinion of what [constituted] as incitement to hatred. In fact, in 2000 Akin Birdal, the president of the Turkish Human Rights Association, was imprisoned under Article 312 for his speech in which he made claims for “peace and understanding” between Kurds and Turks. He was also forced to resign his post under the Law on Associations.\textsuperscript{135}

Article 159 of the criminal code imposed three-year prison sentences for insulting “Turkishness, the Republic, the Grand National Assembly, the spiritual personality of the government ministries, the military, security forces or judiciary of the state.”\textsuperscript{136} Journalists and human rights defenders tended to be the majority of those facing proceedings under Article 159.\textsuperscript{137} It was striking that such a law was in place in 2002 taking into consideration domestic pressures after the war against the PKK and the international pressures on Turkey to revamp its constitution, and increase the transparency of government affairs.

\textsuperscript{133} Ibid. 
\textsuperscript{134} Ibid. 
\textsuperscript{135} Ibid. 
\textsuperscript{136} Ibid. 
\textsuperscript{137} Ibid.
Article 8 of the Anti-Terror Law “[imposed] three-year prison sentences for ‘separatist propaganda.’”\textsuperscript{138} The Anti-Terror Law also punished many non-violent crimes such as pacifists and public critics of political violence. In fact, the publisher Fatih Tas was prosecuted at the Istanbul State Security Court under Article 8 for translating and publishing works by Noam Chomsky that summarized the history of human rights violations in southeast Turkey.\textsuperscript{139} It is clear that the Anti-Terror law was broadly defined to the extent that any statement undermining the military institution could be seen as separatist propaganda, and thus considered as terrorism against the legitimacy of the state.

The Turkish language media was considered lively, and the newspapers and television programs expressed strong criticism of the government and government policy. Of course, they could not discuss the following: “Turkish secularism and the limits imposed on religion in politics; minority rights and the role of ethnicity in politics; and the role of the military in politics.”\textsuperscript{140} It is clear that post-conflict, government policy towards the freedom of the press did not change. The press was free within the limits of the Kemalist ideology.

Although there was no legal impediment to the publishing of newspapers and magazines in Kurdish language, authorities took them away and prosecuted the publishers on charges of separatism. Kurdish radio stations were prohibited under the Law on the Organization and Broadcasts of Radio and Television Stations where all

\textsuperscript{138} Ibid.
\textsuperscript{139} Ibid.
\textsuperscript{140} Ibid.
broadcasting had to be in Turkish language.\textsuperscript{141} In addition, while Kurdish could be spoken in the private sphere, it was prohibited from the political arena. In fact, Article 81 of the Political Parties Law “[forbade] parties from using any language other than Turkish in their written material or at any formal or public meetings.”\textsuperscript{142} The law was enforced to the point where the police videotape public meetings.

The state of polyarchal democracy did not change very much post-conflict. The electoral institutions remained the same, and freedom of expression and the press was still limited. Associational autonomy was also still restricted albeit to a lesser degree (e.g. the HADEP Ethnic Kurdish Nationalist party ran in 2002, but couldn’t pass the national and constituent threshold). Citizenship could not be considered inclusive: if political information was not distributed in both Turkish and Kurdish languages, citizenship was thus restricted. In conclusion, post-conflict Turkey was not moving towards polyarchy.

**Democratic Consolidation**

Post-PKK conflict, Turkey still remained a delegative democracy. There had not been many efforts at changing policies towards the Kurdish question, which was the single most important factor impeding on Turkish democratic consolidation. Until the government can integrate Kurdish nationalism into the Kemalist ideology, Turkey will be faced with an unstable regime, continuously threatened by Kurdish political and cultural requests. In addition, the party system did not change after the war.

\textsuperscript{141} Ibid.
\textsuperscript{142} Ibid.
Rule of Law

The Islamist-leaning Justice and Development Party (AK Party) and its two leaders, Prime Minister Erdogan and Foreign Minister Gul, captured the majority of the vote in the Turkish National Assembly elections in 2002. The AK was determined to weaken the authoritarian institutions of the Turkish state, and specifically that of the Turkish military’s power and autonomy. In December 2003, the Grand National Assembly put an end to the military’s exclusive power over a discretionary amount of money that was most often used to buy weapons. This was the first time since the 1940s that the civilian government had control over military expenditures. In addition, the AK took measures to remove military representative from non-defense-related institutions such as the Higher Education Board and its High Audio-Visual Board. The military had felt that it was needed in these positions to police instances of disrespect for the State.

The most striking reform diminishing the military’s strength and influence on Turkish policies was the weakening of the National Security Council to “an advisory board with a single military representative (instead of the previous five) under the leadership of a civilian.” Moreover, the reform granted the civilian prime minister’s office responsibility for the council’s budget. The officers felt obliged to comply for fear of international sanctions, and EU pressures.

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144 Ibid.
145 Ibid.
146 Ibid.
147 Ibid.
148 Ibid.
However, the military still had a strong hand in political matters because the national-security state in Turkey remained deeply embedded. Thus, if the military deemed it necessary to protect the state, it could intervene in the political arena.\textsuperscript{149} The General Staff was not under the control of the civilian minister of defense, and officers had control over personnel matters. As a result, there was not full civilian control over the military.

The AK’s determination to weaken the power of the Turkish military was a step forward in the decentralization of the state, and toward democratization. An important thing to remember when looking at Turkey post-insurgency is that the institutions established by Kemalism were so deeply embedded into society, that one could not expect to see these disappear instantly. Liberalizing democracy is a process that takes time, especially where strong institutions need weakening, and vice-versa. It is clear that the pressure from the desire to become a member of the EU had positive effects in terms of democracy, and establishing more horizontal accountability between civilians and the military.

\textit{Human Rights Abuses}

In 2004, the Turkish parliament passed a law to compensate the several hundred thousand mainly Kurdish villagers that were forcibly displaced during the armed conflict in the southeast. The law, however, was “implemented in a way contrary to the government’s stated purpose and principles of fair and appropriate

\textsuperscript{149} Ibid.
redress."\textsuperscript{150} Provincial commissions were charged with implementing the laws and obstructed those internally displaced who wanted to return to the pre-war homes by not giving adequate and justifiable compensation amounts.\textsuperscript{151} The Turkish government claimed that the intent of the Law of Compensation for Damage Arising from Terror and Combating Terror was “to deepen trust in the State, to strengthen the State-citizen relationship, to contribute to social peace and the fight against terrorism.”\textsuperscript{152}

Although the payments under the Compensation Law were meant to cover losses that stemmed from the original displacement in addition to those suffered during the decade or more when the displaced Kurdish families were unable to return to their property, the damage assessment commissions appeared to approach their duty holding grudges and arbitrarily deciding the compensation each family deserved.\textsuperscript{153} The displaced people had, in theory, the right to question the compensation in the Turkish courts, but the costs of appearing before the court, the trial delays, and the considerably corrupt judicial system (in particular towards all Kurdish matters) rendered this option unrealistic. They had no choice but to accept what was given to them, and move on with their lives.\textsuperscript{154} As a result, in addition to impeding on the ability of the displaced villagers to return to their pre-war homes,

\begin{footnotesize}
151 Ibid.
152 Ibid.
153 Ibid., 1-2.
154 Ibid., 2.
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“the Compensation Law [was] being implemented in a manner that directly [undermined] the stated purpose of the law and the government’s expressed intent.”

In conclusion, although the AK party made some efforts at creating political space for horizontal accountability from the military to the government, their treatment of the displaced Kurds shows that the government was still not respecting the rule of law. However, it is important to factor in time, and realize that any step towards reducing the powers of the military is significant in terms of improving the rule of law in a country. In particular, the pressures placed on Turkey from the EU will push it to respect the rule of law, and hopefully resolve the ever-growing animosity with the Turkish Kurds.

CONCLUSION

This chapter on Turkey’s internal conflict with the PKK provides a couple of conclusions and lessons about the cost of counterinsurgency strategy on democracy and the rule of law. First, Turkey is an example of a partial democracy faced with an ethno-nationalist driven insurgency. This took a large toll on the inclusion of the Kurds in the democratic process in the long run. As the insurgency war progressed, the restrictions on Kurdish identity and culture increased. In addition, over half of the Kurds living in Turkey were under emergency law, and did not participate in democratic life. The violent counterinsurgency measures implicitly excluded Kurds from their civil rights, and decreased the trust between Kurds and Turks.

155 Ibid., 3.
Second, the use of arbitrary violence on the southeastern region, in relation to the forced displacement of the Kurds, was a breach of the rule of law, led to human rights abuses, and the violation of the laws of war. The costs of the violent measures were not solely seen domestically as they illegitimated the sovereignty of the government, but also led to international sanctions. In particular, the breach of the rule of law was costly for Turkey’s ability to become a member of the EU. It is still, to this day, attempting to reshape its constitution in order to be complete the requirements for membership.

Third, in theory, Turkey can be considered a constitutional dictatorship. However, due to the breach of the rule of law, and the gross human rights abuses, it is closer to a delegative democracy. The most peculiar aspect about the Turkish democracy is that, without the Kurdish question, Turkey could be considered a liberal democracy, or at least an aspiring one. However, the general treatment of minorities in Turkey cannot be considered democratic by Western liberal standards.

In the end, however, I consider Turkey’s war with the PKK to be a positive step in the relationship between the two ethnicities. The PKK’s fight brought the Kurdish question to the forefront of Turkish policy, whereas it had previously been ignored. In addition, it caught the attention from international political actors, who subsequently pressured the government to relax its policies with respect to the Kurds. Therefore, an important lesson to be learned from the Turkish experience is the significance of international pressures in holding governments accountable to international regimes, and minimizing the costs of human rights abuses, which are the backbone of national security.
Chapter 4: Lessons For Pakistan From Peru and Turkey

In this chapter, I shall compare the Peruvian to the Turkish case study, and draw lessons about minimizing the costs of counterinsurgency. I will first compare the nature of the insurgency groups, then I will look at the different government responses and finally I will look at costs of counterinsurgency on democracy and the rule of law in both countries. I shall then give an overview of the instability of Pakistan, first looking at ethnic tensions, then assessing the role of the intelligence agencies, and finally the treatment of internally displaced persons. Moreover, I will give an overview of past and current relations between the United States and Pakistan. Finally, I will use the lessons from the comparison of Peru and Turkey, and apply them to the situation in Pakistan to speculate about possible costs of counterinsurgency and recommendations for reform.

Drawing Lessons for Counterinsurgency: A Comparison of the Experiences in Peru and Turkey

Comparing the Insurgency Groups

Although both the Sendero Luminoso and the PKK based their ideology on Marxist-Leninist ideas of revolution and were initiated by university scholars, these theories were interpreted for different ends. On the one hand, the Sendero Luminoso was a pro-Maoist group that based its ideas of a communist revolution on the writings
of the three theorists aforementioned to recreate Mariátegui’s communist ideas. The Sendero Luminoso opposed the new democratic regime, and wanted to instigate a communist revolution that would be driven by the underprivileged indigenous populations of Peru. Therefore, the Sendero Luminoso’s insurgency was ideologically driven, and forcefully imposed upon the indigenous populations. On the other hand, the PKK used the Marxist-Leninist ideologies to promulgate ideas of self-determination for the Kurdish people of Turkey. The PKK did not arise from a desire to overthrow the Turkish government, but rather to challenge the ideology of the state and to empower the Kurds within Turkey to claim their cultural heritage and not be subordinated to Turkish culture. Thus, the PKK used the Marxist-Leninist thought to drive an ethno-nationalist insurgency fighting for self-determination of nations, and was more easily capable of convincing rural Kurds to join their forces.

Both the Sendero Luminoso and the PKK justified the indiscriminate use of violence as a means to their ends, and had a single leader. However, because the aims were different, the groups followed different strategies. The Sendero Luminoso’s goal was to overthrow the democratic government in order to institute an authoritarian communist government and saw a clear path to it, whereas the PKK’s aims were not as clear and evolved from communist ideas, to demands of separation and self-determination, and finally to claims of greater political space for Kurds within the Turkish democracy. Basically, it aimed for greater cultural recognition of the Kurds as the largest stateless ethnic group in the world, but did not have a set strategy to attain that goal. The Sendero Luminoso coerced and threatened people to form their base, whereas the PKK provided vital needs to the Kurds and addressed social and
political cleavages. I acknowledge that the PKK also coerced and threatened many Kurds into believing in their cause; however, the PKK also provided these Kurds with a political voice, whereas the *Sendero Luminoso* did not politicize the indigenous people.

Even though both the *Sendero Luminoso* and the PKK took advantage of the fact that the regions where they initiated the insurgency were largely neglected by the central government, and were underdeveloped and isolated regions, the factors that led to the rise of each insurgency were different. In Peru, for example, Marxist groups were tolerated under the military regimes in the 1960s and 1970s, which provided the space for the guerrilla group to form and express their ideas without much fear of the state prior to the democratization of Peru. In addition, the *Sendero Luminoso* was able to use the new and fragile democracy to its advantage in criticizing the state of the regime as being ineffective at addressing the needs of the peasants and excluding them for the democratic process.

Similarly, the Kemalist tradition in Turkey was a significant factor leading to the creation of the PKK, and a driving force to rally the rural Kurds around a common cause, however, the rise of the group largely depended on the international context. The PKK was able to train away from the Turkish armed forces, and consolidated its power in neighboring Kurdish areas of Syria, Iraq and Iran. Moreover, the Kurdish diaspora throughout Europe provided a network of support amongst brethren in liberal Western countries that could pressure their governments to sanction Turkey for their actions against the Kurds.
This comparison of the insurgency groups does not show solely the obvious point that all insurgency groups are different, but also stresses that the aims and strategy of an insurgency group largely defines the necessary counterinsurgency measures for a central government. It also brings to light an important idea that, although all insurgency groups undermine the legitimacy of the state, not all groups are fighting to overthrow the government and its institutions. Moreover, from this comparison it seems it is almost impossible to write a theory of counterinsurgency strategy that will work in practice based on the large array of contingencies that allow for the rise of the different insurgency groups. An in depth knowledge of the origins, ideology, aims and strategy is indispensable to the drafting of effective counterinsurgency policies in any country; however, the information is not often easily accessible during an internal war.

Comparing Government Responses

The government responses in Peru and Turkey provide a number of lessons to draw from for future counterinsurgency policies. First and foremost, the experience in Peru shows that governments should respond promptly to the threat of an insurgency. If the government had, from the start, realized and acknowledged that the Sendero Luminoso posed a real threat to its legitimacy, it may have been able to cut the insurgency at the root before it was able to grow, and avoided suffering the costs of counterinsurgency. Second, establishing a balance of military force and economic incentives in counterinsurgency operations is essential. The shift in the military from the exclusive use of violence to a ‘winning the hearts and minds’ strategy allowed for
greater progress of the counterinsurgency operations. Moreover, it is important to
treat noncombatant civilians with respect. Third, the stability of macroeconomic
policies is important to sustain social policies as part of counterinsurgency, as well as
maintaining legitimacy for the government. Fourth, the improvements of the
specialized police intelligence units and the use of peasant militia was essential to
capture Guzmán. In addition, it allowed the indigenous populations within the
emergency zones to fight alongside their government and give them a sense of
empowerment.

Moreover, the Peruvian experience shows that a country can attempt to
maintain democracy for the internal and external legitimacy it provides. Although
Guzmán was captured under the Fujimori administration after the self-coup, it is
unclear whether centralizing the powers into the hands of one politician was the
reason for the fall of the Sendero Luminoso. In fact, the specialized intelligence units
and peasant militias, which were largely responsible for defeating the insurgency
group, were instituted before Fujimori was elected president. Nonetheless, Peru faced
economic instability and governmental disapproval in addition to the war with the
Sendero Luminoso, and the Peruvian people generally applauded Fujimori’s self-
coup. Therefore, it is important to maintain relative stability in order to support a
democracy while fighting an insurgency. In addition, in order to maintain a stable
democracy during an internal conflict, there should have been greater communication
between the government and the military, and the military should have been held
accountable to the government.
The experience in Turkey also provides some lessons that are specific to a response against an ethno-nationalist insurgency group. First, the government must acknowledge the problem, and listen to the rhetoric of the insurgents. The Turkish government never fully acknowledged that there was a Kurdish problem, but rather thought there was just a terrorist problem. Because of the deep-seated Kemalist tradition, the government failed to acknowledge Kurdish grievances or Kurdish identity, and doing so might have avoided the large mistrust between the civilian Kurds and the central government. Second, the war with the PKK showed that counterinsurgency is a protracted effort, and there is no such thing as a quick defeat. This is a key lesson that government officials and military forces should realize and also communicate to the public. Third, it is essential to differentiate between civilian and insurgent, and realize that insurgencies are targeted not total wars. This is particularly important in Turkey where all things Kurdish eventually became associated with the PKK. In addition, if a Kurd in the southeast region declined to join the village guard, the latter was considered disloyal to the government and a traitor to the PKK. Thus, in addition to differentiating between civilian and insurgent, it is also important to respect neutrality.

Fourth, similarly to Peru, the experience in Turkey shows that the military should not be granted full autonomy in the emergency zones. When left unchecked, the activities of the military can lead to gross human rights abuses as seen in both Peru and Turkey. Because the military is not accountable to the people in the same way a democratic government might be through elections, etc..., it does not have the same incentives to maintain its approval rates. When the power of the military is left
unchecked in the emergency zones, it is free to act with complete disregard for human rights standards. If, however, the military were under democratic civilian control, there would be greater incentives to maintain good civilian-military rapports and the military would not have the same freedom to act with impunity.

Finally, the experience in Turkey shows that it is necessary for the government to acknowledge the time for political dialogue. Turkey could have begun a dialogue with the PKK after capturing Öcalan, and militarily defeating the insurgency. At that point, the government had the upper hand, and the opportunity to negotiate with the insurgents and address the grievances of the group, especially if these were legitimate (such as the claim for greater cultural recognition of the Kurds). In addition, it would have legitimated the government as the representative of all people within the state and provided a platform for a new and trustworthy relationship between the Kurds and the government. In addition, the EU member requirements placed on Turkey shows the possible strength and influence of international pressures in moving towards reform.

Comparing Costs of Counterinsurgency on Democracy and the Rule of Law

The counterinsurgency strategies in both Peru and Turkey came with a great institutional and human cost. In both countries, the war weakened the democratic institutions, undermined the rule of law, and led to countless human rights abuses. Peru serves as an example of a new and fragile democracy faced with an insurgency, whereas Turkey serves as an example of a partial or electoral democracy. In both situations, the democratic regime was not consolidated at the start of the war, and the
level of democratization deteriorated throughout the war period. Moreover, both countries restricted horizontal and vertical accountabilities, but to different degrees.

During the war in Peru, the democratic regime was consolidated but unstable. As I showed in the second chapter, the Peruvian government was actually able to maintain a relatively good standard of polyarchy; however, there was an emphasis on preventing democratic failure than on attempting to deepen democracy. After Fujimori’s coup and the fall of the Sendero Luminoso, the Peruvian government did not uphold the political institutions for polyarchy, and the regime changed into a delegative democracy. However, the delegative democracy under Fujimori brought more stability to Peru, albeit in the short-term. By centralizing the executive powers, Fujimori was able to provide economic growth and relative economic stability, and rebuilt most of the infrastructure that was destroyed by the operations against the Sendero Luminoso. His policies, in particular his economic and social policies, legitimized his government in the minds of the Peruvian citizens. Fujimori’s presidency, however, failed to institute a sense of party politics. As a result, although the regime was stable under a delegative democracy, the lack of party politics and the absence of a system of checks and balances made it difficult to foresee a stable transition to a liberal democracy in the future.

It appears as though the autonomy of the military, the dependence of the judiciary on the executive branch, and the general lack of checks and balances amongst the institutions, were the main reasons for the damage to Peru’s democratic institutions because these undermined the democratic rule of law. Granting full autonomy to the military created a ‘state within a state’ and the armed forces could
take action as they saw fit in the emergency zones. In addition, the broad definition of the anti-terror law gave power to the military to condemn anyone as a terrorist. Moreover, although during the war the judiciary was technically independent, it was considered corrupt and malfunctioning, and it did not serve as a check to the activities of the military. Under Fujimori, the quality of the judicial branch increased; however, it was not independent. The general lack of horizontal accountability left the military, and judicial institutions widely unchecked, undermined the vertical accountability from the government to the people, and led to human rights abuses through violence, torture, and disappearances both during and after the war.

Based on these conclusions, it is possible to speculate about alternative solutions for Peru. Peru is an example of a situation where the executive powers remained relatively decentralized with low levels of horizontal accountability and where the rule of law was generally not upheld. Thus, looking back to figure 2 in chapter 1, Peru’s experience should be seen within the realm of the second quadrant. Taking into consideration that the optimal situation is one where the government is able to maintain decentralized power while also having a high level of horizontal accountability, in order to minimize the costs of counterinsurgency strategy on democracy and the rule of law in Peru, the first step would have been to institute a stronger system of checks and balances amongst the political institutions, specifically between the military and the government. This does not mean that the government should have restricted the involvement of the military in creating counterinsurgency policies, but rather there should have been greater transparency and communication between the government and the military.
During the war in Turkey, the regime was neither consolidated nor stable. In fact, it appeared as though the Kurdish question, within the realm of the Kemalist ideology, was the largest impediment to democratization in Turkey. The rise of the PKK simply exacerbated the already existing problem, and led to a violent conflict between the Kurds and the Turks. The regime was already unstable before the war, and the rise of the PKK just intensified the instability. As I noted in chapter 3, Turkey was considered a delegative democracy. In contrast to Fujimori’s delegative democracy, Turkey had a highly institutionalized political party, and the democratic process was embedded in civil society. Moreover, as opposed to the Peruvian democracy during the war where the regime was unstable and negatively consolidated and thus, had the possibility of transforming into an authoritarian regime, Turkey’s democracy was enduring, albeit unstable and unconsolidated. In addition, I query whether the governments following the fall of the PKK in 1999 would have made an effort to attempt to liberalize democracy in Turkey if the country was not subject to pressures from the EU.

It is important to note that the PKK insurgency did not present itself as a threat to democracy as a regime, but as a threat to the Kemalist state. This is one of the main differences between ideologically driven insurgencies and ethno-nationalist insurgencies: while the former poses an ideological threat to the current regime, the latter poses a threat to the structure of the nation state. I would argue that this is a much greater endeavor that not only affects the incumbent governments during the war, but also undermines the whole basis of the state.
The role of the military in Turkey is of particular interest to me. As the preserver of Kemalism, and balance within the state, the Turkish military did not act outside of the rule of law when using indiscriminate violence against the Kurdish communities in the southeast region. However, the role of the military shows that Turkey could not be considered a fully liberal democracy because of the lack of checks and balances between the civilian government and the military. The role of the military directly impeded on Turkey’s ability to democratize, and the war against the PKK further exacerbated the impediment.

Based on these conclusions, counterinsurgency strategy in Turkey did not create new costs on democracy and the rule of law but rather exacerbated the already present instabilities and inadequacies of the Turkish institutions and the Kemalist ideology. Turkey was only a partial democracy before the war, and remained a partial democracy throughout. However, the human costs of the war in the mainly Kurdish southeast region aggravated the already present tensions between the Turks and the Kurds, and further excluded Kurds from the political sphere. The war against the PKK led the government to institute state terror and greatly diminished vertical accountability from the government to its citizens.

Turkey is an example of a country that had ‘rule by law’ as opposed to ‘rule of law’. I consider, however, Turkey’s gross abuse of human rights, and the violations of the laws of war as evidence that the government did not uphold the institutions that are necessary for the rule of law in a democracy, including a system of checks and balances. As a result, because the powers of the executive were centralized, and there was a low level of horizontal accountability amidst the political institutions, the case
of Turkey would fall in quadrant 3 of figure 1 in chapter 1. Thus, Turkey serves as an example of the worst-case scenario for the costs of counterinsurgency on democracy and the rule of law. It is clear that, in order for Turkey to have minimized these costs, a complete revision of the constitution limiting the powers of the state would have been necessary. I acknowledge that this is a bold statement; however, as I claimed in chapter 3, Kemalism was the greatest impediment to Turkish democratization.

**Applying these lessons to current day Pakistan and the war against the Pakistani Taliban**

2008 marked a transitional year for Pakistani politics. The military government under General Musharraf ceded power to a civilian government: general elections were held in February 2008, and the new incumbent president Zardari took office on September 9th, 2008. Although this shift towards democracy is a considerable step forward for Pakistani politics, the Zardari administration inherited an already unstable Pakistan. In addition to an acute economic crisis, where there are more people living below the poverty line than after the India-Pakistan war of 1971, poor civilian-military relations and growing ethnic tensions, the government also faces violent threats from militants, and in particular from the Pakistani Taliban.\(^{156}\) Needless to say, it is essential that the new democratic regime be able to reach a level of stability in order to overcome the challenges already present, and it is arguable that this stability can only come through a complete transformation of the institutions and the country’s body politic.\(^{157}\)

\(^{156}\) Hilary Synnott, *Transforming Pakistan: Ways Out of Instability* (Routledge, 2009), 12.

\(^{157}\) Ibid., 15.
In a country where the state itself enters in ethnic conflicts against its own citizens, and in turn creates animosity between communities, “violence becomes an acceptable means of managing social and political relations, resulting in a weakened state.”\textsuperscript{158} The Pakistani state must assert itself as claiming the monopoly on the legitimate use of physical force within its territory in order to be viewed as a legitimate government. Failure to do so will lead to increase use of violence that will be destructive to the “social fabric of an already fragile state and could prove to be political suicide.”\textsuperscript{159}

In this section, I would like to give a brief overview of the national identity and ethnic divisions in Pakistan, and the role of the intelligence agencies in politics. In addition, I would like to address the problem of the Internally Displaced Persons due to counterinsurgency operations against the Taliban in the FATA region, and U.S.-Pakistan relations in the war on terror. Finally, I will assess possible costs of the counterinsurgency operations against the Pakistan Taliban on democracy and the rule of law, and potential reforms. Before I begin, I would like to acknowledge that I have attempted to generalize and simplify the following information, and that I am aware that there are many other factors and contingencies that have led to instability in Pakistan. However, for the purpose of my study, I did not deem it necessary to mention these intricacies.


\textsuperscript{159} Ibid.
National Identity and Ethnic Tensions

Pakistan is the only country to have been established on the grounds of a common Muslim identity. However, the Muslims throughout Pakistan have been divided by the nature and the practice of their faith, and religion has proven to be insufficient to “hold the state together in its original form.”\textsuperscript{160} In addition, the diverse ethnic and linguistic groups, specifically in the tribal regions, have exacerbated the problem of a common national identity.\textsuperscript{161} Although Urdu is the chosen national language, the Pakistanisation of the federation has not really been successful.\textsuperscript{162} The state has not been able to drive national pride, and institute a sense of unity amongst the different ethnicities. There are four main ethnicities in Pakistan: Sindhi, Punjabi, Baluch, and Pashtun.\textsuperscript{163} The Punjabi majority controls the key institutions in the central government and the armed forces. For the purpose of my study I would like to focus on the Pashtun tribes who predominate in the FATA, NWFP and northern Baluchistan because these have been the most involved in the Taliban insurgency and directly affected by counterinsurgency operations.

The Pakistani constitution guarantees the basic rights of all people of Pakistan, including people in the Federally Administered Tribal Areas (FATA). However, although there are representatives of the FATA in the national parliament giving them a role in shaping policies that apply to the rest of the country, “parliament has no

\textsuperscript{160} Synnott, \textit{Transforming Pakistan: Ways Out of Instability}, 19.
\textsuperscript{161} Ibid., 14.
\textsuperscript{162} Ibid., 21.
power to legislate for the FATA.”¹⁶⁴ Instead, the president extends laws to the FATA by way of presidential regulations.¹⁶⁵ There are no police or courts in the FATA, and the Supreme Court does not have, in theory and in practice, any “jurisdiction to safeguard and enforce constitutional rights” in the region.¹⁶⁶ Therefore, although the inhabitants of the FATA are theoretically protected by the constitution, there is a lack of institutions necessary to guarantee these rights.

There had not been any direct conflict between the Pashtuns and the state armed forces since the creation of Pakistan until July 2002 when, at the request of the United States, the military sent troops into the FATA to fight the Taliban insurgents at key transit points on the Afghanistan-Pakistan border.¹⁶⁷ The presence of the military in the FATA intensified tensions between the predominantly Punjabi military and the Pashtun tribes. In addition, the use of U.S. Predator Aircraft has resulted in widespread civilian casualties, and is leaving a profound political impact in the area.¹⁶⁸ This has led to an increase in the politicization of the Pashtun areas, and the representatives of the FATA are requesting greater economic development in the area under Pashtun control as opposed to being under the control of the Punjabi government. Moreover, “by arousing a Pashtun sense of victimization at the hands of outside forces, the conduct of the “war on terror” in the FATA has strengthened the very Jihadi forces that the U.S. seeks to defeat.”¹⁶⁹ Furthermore, with its leadership

¹⁶⁴ Synnott, Transforming Pakistan: Ways out of Instability, 106.
¹⁶⁵ Ibid.
¹⁶⁶ Ibid.
¹⁶⁷ Ibid.
¹⁶⁹ Ibid., 18.
base in the Ghilzai Pashtun tribes, the Taliban has been able to portray itself as the champion of “both Islam and Pashtun nationalism.”  \(^{170}\)

It is clear that the war on terror, and more specifically the counterinsurgency operations against the Pakistani Taliban in the Federally Administered Tribal Areas, have intensified the ethnic tensions within Pakistan, in particular between the Punjabi majority and the Pashtun minority. These ethnic tensions, and the issue of the balance of power between the central government and the tribal areas is an important issue to keep in mind when thinking about the costs of the counterinsurgency measures on democracy and the rule of law in Pakistan. In addition, as I said earlier, it is important to promote stability in Pakistan, and improving the balance of power in government and military affairs in the FATA between Punjabis and the Pashtuns is imperative.

The Role of the Intelligence Agencies in Pakistani Politics

The new and fragile democratic government must acknowledge the decisive role that the intelligence agencies play in directing policy in order to offset the direct and more subtle expression of military control over government affairs.  \(^{171}\) There are three elements that characterize the domestic political role of the intelligence agencies: “militarization, comprehensive political surveillance, and state terror.”  \(^{172}\) Depoliticizing the intelligence agencies is of outmost importance to democratic consolidation in Pakistan as well as being an element of national reconciliation.  \(^{173}\)

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\(^{170}\) Ibid.

\(^{171}\) Grare, "Reforming the Intelligence Agencies in Pakistan’s Transitional Democracy," 1.

\(^{172}\) Ibid.

\(^{173}\) Ibid.
this point, there has been little institutional change in civil-military relations and “the army remains the dominant actor in Pakistan’s political life.”  

The intelligence agencies in Pakistan view the military as their natural patron, and do not consider the civilian government as exercising any control over them. Democratic control of the intelligence agencies, however, “is a matter of accountability and orientation, not professional skill.” The ISI does not need to be under the control of the military to be effective. Therefore, although the political actors within the democratic government may not have the same military experience and knowledge as the armed forces, this does not exclude them from being able to govern the intelligence agencies and creating a system of accountability from the agencies to the government. However, the civilian government must prove that it is capable of being in control of the intelligence agencies, and can act autonomously from the military, while also maintaining good civilian-military relationship. The new and fragile democracy in Pakistan “cannot afford to alienate the military whose support is crucial for its survival.” Establishing democratic control over intelligence agencies will serve as a means for the civilian government to assert its control over all politics within Pakistan, and thus reducing the role of the military in shaping policy and making executive decisions.

The intelligence agencies in Pakistan, also known as the Inter-Services Intelligence or ISI, “[have] been described variously as a state within a state, answerable only to itself, and as a controlled instrument of the army, from whose

174 Ibid., 3.
175 Ibid., 4.
176 Ibid., 7.
177 Ibid., 14.
ranks its personnel are drawn." In theory, however, the intelligence agencies operate under the executive powers of the federal government and are answerable to the prime minister. The intelligence agencies in Pakistan are required to work under the ambit of the federal government’s executive powers, however, when attempts to monitor the intelligence agencies fail, the military usually assumes a stronger role in overseeing these agencies. It appears as though the relationship between the military and the intelligence agencies is embedded within their institutions, and the solution should be a reform of the intelligence agencies that is consistent with the reality of the political system. In addition, appointing individuals that are loyal to the government at the head of the intelligence agencies could avoid military involvement in politics. Finally, civil society and public opinion should be involved in these reforms, and the military must cooperate. Although the cooperation of the state armed forces is easier said than done, I believe establishing a working relationship between the government and the military is the most important step to reforming the intelligence agencies.

178 Synnott, Transforming Pakistan: Ways out of Instability, 57.
179 Ibid.
180 Grare, "Reforming the Intelligence Agencies in Pakistan’s Transitional Democracy," 36.
181 Ibid., 76.
182 Ibid., 36.
183 Ibid., 76.
Internally Displaced Persons from Pakistan’s Tribal Belt

According to the Internal Displacement Monitoring Centre, the latest figure of Internally Displaced Persons (IDPs) in Pakistan’s tribal belt is 1.25 million people. 80-90% of these people are living with “host families and friends or in communal buildings such as schools rather than camps.” It is easier to keep track of numbers when the IDPs move into camps, and government sponsored areas. In addition, the use of camps provides the possibility of providing social provisions such as health care and basic needs to the IDPs. Moreover, most host families are already under tight budgets and have limited resources, and should not be burdened with long-term IDPs. However, the UN refugee agency (UNCHR) claims that they are expanding camps and have seen an increase in influx of people moving from host families to camps. According to the Office for Humanitarian Affairs, there are four camps that are still receiving IDPs, and an average of 300 to 500 families arrive daily. There is an increase in the resentment of host communities when they see that their access to services is decreased because of the presence of the camps.

Providing security and vital needs to the internally displaced persons is crucial for both the IDPs and the host communities. A slow response to such a situation can have strong human and political consequences. For example, a vacuum in the

185 Elizabeth Ferris, "Pakistani Displacement: Lessons Learned from Other Mass Displacement Situations " (The Brookings Institution, 2009), 2.
186 Ibid.
188 Ferris, "Pakistani Displacement: Lessons Learned from Other Mass Displacement Situations ", 2.
provision of assistance leaves room for extra-governmental groups to fill in the gaps, including insurgency groups such as the Taliban.\textsuperscript{189} However, it is important to note that Pakistani NGOs, in conjunction with a vibrant civil society, financial and humanitarian aid from the UN and the U.S. government, have been willing and, to a degree, able to fill most of these gaps thus far.

The state must also ensure that the IDPs have sustainable returns to their homes. This is crucial for the stability of the Pakistani state. IDPs should not be told to return to their homes if the areas have not been secured. However, “there are reports that some of the displaced who returned to their communities have left again because of insecurity.”\textsuperscript{190} Moreover, the displacements should not become protracted. Under the \textit{Guiding Principles for Internal Displacement}, there are three general solutions for the IDPs: one, they can return to their communities; two, settle into the community to which they have been displaced; or three, move to another part of the country.\textsuperscript{191} If a large number of IDPs remain in their host villages or move to another part of the country, this could have social consequences such as intensified ethnic tensions. Moreover, the villages of origin will be lacking in the necessary manual labor needed to rebuild communities that were devastated by the war.\textsuperscript{192} The state’s ability to “mobilize funding from external donors to help [respond to the challenge] will have crucial implications for popular confidence in state institutions and thus

\textsuperscript{189} ICG, "Pakistan’s IDP Crisis: Challenges and Opportunities, Asia Briefing N. 93," (International Crisis Group, 2009).  
\textsuperscript{190} Ferris, "Pakistani Displacement: Lessons Learned from Other Mass Displacement Situations ", 3.  
\textsuperscript{192} Ferris, "Pakistani Displacement: Lessons Learned from Other Mass Displacement Situations ", 3.
stability nationally.”193 It is imperative that the Pakistani government follows the principles of internal displacement, and provides appropriate services and compensation to the displaced.

U.S.-Pakistan Relations

Following the Soviet invasion of Afghanistan in 1979, the U.S. under President Reagan offered General Zia (the leader of Pakistan) $3.2 billion in aid for his country’s support in fighting against the Soviets in Afghanistan.194 This marked the beginning of an eight-year-long relationship between the U.S. government and Pakistan, which was, at the time, a military autocratic government that embodied state power, and was a haven for militant religious forces.195 The U.S. opposed the Soviet invasion of Afghanistan because it viewed it as a violation of international law and the integrity of another state.196 Pakistan, on the other hand, accepted an alliance to the West against the Soviets in Afghanistan because it was concerned with “the implications in relation to India, a long-term ally of the Soviet Union that had refused to condemn the Soviet action and that could be expected to capitalize on a Soviet presence on Pakistan’s western flank.”197 Thus, Pakistan was concerned about being surrounded by enemies on both its east and west borders, and hoped that replacing the Soviet government with a friendly one would diminish border tensions.198

193 Synnott, Transforming Pakistan: Ways Out of Instability, 173.
194 Ibid., 28.
195 Ibid.
196 Ibid.
197 Ibid.
198 Ibid.
In spite of their differing reasons for fighting the Soviets in Afghanistan, Pakistan joined the West, and “they shared a willingness to make use of religion for this purpose.” The Saudis were also attracted to the religious aspect and vowed to match U.S. aid to Pakistan dollar for dollar. Pakistan and the West decided to appeal to Afghan fighters’ tribal customs “in which collective and personal honour [demanded] that anyone who violated the integrity of the home territory be forcibly evicted,” and used the Muslim idea of Jihad, or holy war, to rally Afghanistan’s tribal leader to start an armed rebellion against the foreign invader.

After the Soviets withdrew, Afghanistan was left dominated by warlords and, in 1994 the Taliban movement emerged under the leadership of Mullah Mohammad Omar. The group had been armed and trained by the Pakistani and U.S. armies, and had close ties to the Pakistani ISI. Both Pakistan and Afghanistan were full of fighters and weaponry, and Pakistan even went on to develop its nuclear-weapons program. The U.S. halted military assistance and financial aid to Pakistan after its strategic objectives were reached against the Soviets and led Pakistan to view the U.S. as a fair-weather friend. Although Pakistan accepted to be a U.S. ally in the war on terror after September 2001, the anti-American sentiment in Pakistan has remained strong amongst contemporary politicians and civilians.

In spite of Pakistan being a front line state in the war on terror since 2001, there is no doubt that the government has been focusing on protecting its own interests. First, Islamabad’s relationship with the Taliban were so important that,

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199 Ibid., 29.
200 Ibid., 30.
201 Ibid., 31.
“throughout the initial phase of Operation Enduring Freedom, General Musharraf and his cohort implored the United States to desist from decisively destroying Mullah Muhammad Omar’s regime in Afghanistan.” 202 As soon as General Musharraf finally realized that the U.S. could not see any other solution than overthrowing the Taliban in Afghanistan, many Taliban operatives crossed the Afghanistan-Pakistan border to settle in the FATA. Due the absence of a strong Pakistani state presence in the area, and the remote and mountainous terrain of the area, the Taliban considered the FATA as a sanctuary. 203 In fact, “because most of the Taliban’s fighters originally mobilized by the Pakistani ISI were drawn from the Ghilzai confederation of Pashtuns,” it is understandable that many returned to their ancestral lands. 204 It is clear that Pakistan did not share the same views as the U.S. of the incumbent Taliban government, and the Taliban network was “deliberately permitted to escape the wrath of General Musharraf’s counterterrorism operation in the initial phase of the war on terror.” 205

However, despite Pakistan’s initial reluctance in being an active participant in the war on terror, it has since “secured major gains in eradicating some domestic anti-national sectarian terrorist groups and has contributed disproportionately to the ongoing campaign against al-Qaeda.” 206 Still, operations against insurgents in the FATA remain weak and undedicated. 207 Pakistani commanders fear that any continued large-scale military presence in the area “will only further inflame tribal

203 Ibid.
204 Ibid., 6.
205 Ibid., 9.
206 Ibid., 10.
207 Ibid.
sensitivities and diminish cooperation between tribal leaders and the armed forces.\textsuperscript{208}

The arrival of the Pakistani army in the FATA has led to social disruptions that have challenged the counterterrorist operations.\textsuperscript{209} There needs to be greater cooperation between the tribes in the FATA and the Pakistani armed forces in order to coordinate an effective counterinsurgency strategy. Similarly to requiring cooperation of the military in reforming the ISI, establishing coordination between the FATA and the state armed forces is easier said than done. The military has always had its own agenda, and reform must come with patience.

It is clear that, for domestic security issues, Pakistan has had conflicting goals with the U.S. in the war on terror. In addition, the memory of the war in Afghanistan in the 1980s is still present in Pakistan, and the government officials and citizens believe that the U.S. is, once again, using Pakistan for its own strategic objectives and will cut aid as soon as they have attained their goals for the war on terror. Pakistani government officials view the use of U.S. drone attacks in the FATA “as violations of Pakistani sovereignty, calling for them to be halted immediately.”\textsuperscript{210} The U.S. drones are also largely condemned by public opinion in Pakistan, increasing the levels of disapproval for the current administration and undermining the government’s ability to stand up to Western powers and to assert their rights as the leaders of Pakistan.

\textsuperscript{208} Ibid., 17.
\textsuperscript{209} Ibid., 26.
\textsuperscript{210} Synnott, \textit{Transforming Pakistan: Ways out of Instability}, 11.
Potential Costs of Counterinsurgency Operations for Pakistan’s Democracy and the Rule of Law

In order to address the potential costs of counterinsurgency on democracy and the rule of law in Pakistan, I shall assess the similarities of the situation in Pakistan to those in Peru and Turkey. I will attempt to apply the lessons learned from Peru and Turkey, and hopefully find areas for potential reforms that could help minimize these costs. First, I believe it is important to acknowledge that considering Pakistan as having a democratic regime might be premature. Although the incumbent administration is composed of civilian politicians that were popularly elected, they have only been in office since 2008. Thus, my analysis of the stability of democracy in Pakistan can only be based on my understanding of the past-two years. Instead of classifying Pakistan as a democracy, I would like to think of it as a transitional democratic government. If the current administration can remain in power throughout its terms, and leave office peacefully through an election, then the question of democratic consolidation can be truly analyzed. Nonetheless, I believe an analysis of the effects of counterinsurgency on democracy and the rule of law can provide insights as to the possible future of a democratic regime in Pakistan.

The Pakistani Taliban can be considered an ideologically driven insurgency as well as an ethno-nationalist one. At a very basic level, the ideology of the Taliban is rooted in a strict and conservative interpretation of Islam that is extremely anti-modern, and subsequently anti-democracy. The Taliban movement, in general, can be described as an ideologically driven insurgency with the goal of overthrowing the Pakistani central government. The Taliban in the Ghilzai confederation of Pashtuns in
the FATA are also taking on an ethno-nationalist dimension. As I explained earlier, the FATA are only nominally governed by the federal government, and remain largely independent from Pakistani politics. However, the war on terror and the presence of Pakistani military and Western troops have politicized the Pashtuns in the area. Being that the Taliban in the FATA are also ethnically Pashtun, and many originate from the Ghilzai confederation, they have used the ethnic tensions between the mainly Punjabi government and military actors and the tribal Pashtuns, to form its base. The Pashtuns in the FATA are also Muslim, and many of their customs derive from Sharia. However, I am not certain the Pashtuns care about overthrowing the government, but are rather more concerned with increasing their independence from Islamabad.

When designing counterinsurgency policy in Pakistan, the government should protect itself from the possibility of being overthrown, but must also refrain from alienating the Pashtuns and identifying them as insurgents based on their shared ethnicity with the Taliban. Perhaps a strategy similar to the peasant militia in Peru and the village guards in Turkey could provide greater autonomy to the Pashtuns and allow them to fight in the war on terror. Although the Pakistani army is constitutionally permitted to send security forces anywhere in the country if it is a matter of national security,\textsuperscript{211} this presence should not be solely an imposition but rather a support for the war against the militants. However, lessons should also be taken from the Turkish experience where village guards were coerced to join, and their neutrality was not respected. In addition, many of the arms given to the village

\textsuperscript{211} Ibid., 115.
guards were used to settle tribal feuds. Thus, military oversight, but not a violent oversight, is also necessary. The military should not present itself as a threat to the civilians, but rather as a support.

The situation in Pakistan is similar to that of Peru in the sense that it is a new and fragile democracy, with weak political institutions faced with the threat of an insurgency that wants to overthrow the government. In addition, the presence of Taliban and the increase in violence has intensified the difficulties of depoliticizing the military. Moreover, Pakistan is also dealing with an acute economic crisis, and therefore its means of providing social services to the emergency zones remain restricted. It would appear as though using a ‘winning the hearts and minds’ strategy similar to Peru could help gain the trust of the civilian population in the FATA, however, the ethnic tensions between the mainly Punjabi government and the Pashtuns would most likely prove such strategy to be ineffective.

The situation in Pakistan shares similarities with Turkey in that the military has always seen itself as the protector of the state. In addition, albeit less institutionalized as Kemalism, the military as the protector of national security, has the right to intervene when the integrity of the state is being jeopardized. There are clear ethnic tensions between the Punjabi military and the Pashtun’s in the FATA, and it appears as though the military is a threat to the FATA as opposed to a support. Moreover, the large number of internally displaced persons in Pakistan resembles the situation in Turkey. If the government does not follow the Guiding Principles for Internal Displacement and provide the proper legal and humane treatment to these IDPs, this could lead to long-terms animosity and mistrust of the government. These
internally displaced persons should feel as though the government is on their side to avoid greater instability.

Drawing from lessons from both Peru and Turkey, the balance of power between the civilian government and the military must be equalized. I am not sure that making the military completely subordinate to the government is a sound idea because the military does have greater experience in warfare; however, I do believe that horizontal accountability from the military to the government in addition to greater transparency of civilian-military affairs are indispensable to the stability of Pakistan. Moreover, as seen in both Peru and Turkey, when the military is granted full autonomy in these emergency zones and is left unchecked, it will act as it sees fit for national security and will violate human rights. As I mentioned in my first chapter, human rights should be seen as the backbone of national security. If national security can be seen as global human security, and human security can be achieved though the protection of human rights, then a global human rights policy should be inherent to any national security policy. Although attempting to protect human rights in an insurgency war may seem ineffective in the short-term, it will most likely provide greater stability in the long-term due to civilian trust of the government, and general public approval. In addition, protecting human rights will provide greater space for international support, which is essential to Pakistan in providing aid to those directly affected by the counterinsurgency operations.

It appears as though the most important issue in Pakistan is instability due to weak institutions. Obviously, the solution to this problem is for the government to take measures to strengthen the political institutions in order to bring upon greater
stability. Perhaps a solution could be a form of constitutional dictatorship or even delegetative democracy. Centralizing the powers into the executive, in general, strengthens governmental institutions. However, I do not think it is safe for the future of Pakistani democracy to centralize powers only two years after electing a civilian democratic government.

The counter to this argument might be that, if Pakistan does not strengthen its institutions now and centralize its executive powers, it may not be able to defeat the Taliban and there will subsequently be no democracy at all. This is where the question of analyzing the costs of counterinsurgency against their benefits becomes central. Is it more important to focus solely on defeating an insurgency at all costs, and then think about liberalizing the regime? Or conversely, is it more important to think about the long-run life of democracy and stability, and focus on maintaining democratic institutions while fighting an insurgency? The answer to these questions might be tangential to my topic; however, they are worth thinking about.

From the experience in Peru, although the government fought most of the war under a democracy, the regime was greatly unstable, the economy was in crisis, and the government was losing both domestic and international support. It was only a matter of time before the military stepped in and took over the government. Fujimori, despite being corrupt, did provide greater economic stability, established sustainable social policies, and regained public support for the government. There is no doubt that his presidency was more stable than his predecessors. In addition, while his delegetative democracy may not be directly responsible for the fall of the Sendero Luminoso, it nonetheless avoided a new uprising. However, a delegetative democracy is
one where there is no horizontal accountability and the executive can take action without any checks and balances and becomes detrimental to the possibility of a liberal democracy in the future.

Although Rossiter claims that constitutional dictatorship assumes that the government is a liberal democracy, in my opinion, Pakistani state should become a constitutional dictatorship. However, the government must first reform its constitution to diminish the power of the military and the public should be widely involved in the reform. International support in providing insight for the reform will be imperative; however, the international community can only serve as a supporting advising team and should, by no means, be involved in final decisions. The reform must come from within. Of course, one might argue that there is not much space for reform taking into consideration the instability this would bring in the short-term. Perhaps, the answer to these concerns is that there is no perfect solution, and long-term stability would help diminish the threat of insurgency in the future. From the research I have done on Peru and Turkey, it appears as though thinking solely in the short-term has brought upon large institutional and human costs.

The main attraction to constitutional dictatorship is stability, and more importantly, upholding the rule of law. Constitutional dictatorship can also be dangerous for the future of democracy in Pakistan if those in power refuse to cede the power of sovereignty when their term is over, and thus becoming solely a dictatorship. For this reason, I believe providing international pressures, similar to the situation with Turkey and the EU, will create incentives for the Pakistani government
to abide by the constitution. These incentives should be diplomatic of some sort, as opposed to being in the form of financial aid.

When dealing with ethnic tensions with the Pashtuns, perhaps opening a political dialogue with the FATA could provide space for a more peaceful resolution to their needs. The government should address these issues diplomatically, and reach compromises with the civilians in the FATA. Although it is likely that the Taliban is coercing civilians in the FATA to join their insurgency, many are also choosing to join because the Taliban offers them vital and social needs that the government is failing to provide. Thus, greater communication and delegation of power between the central government and the representatives of the FATA might help ease the tensions and diminish the incentives of joining the Taliban.

In conclusion, although I agree that I have a rather idealistic view as to the ways in which Pakistan could minimize the costs of counterinsurgency, based on the experiences in Peru and Turkey, my arguments appear valid. Whether or not the government of Pakistan is capable of being a constitutional dictatorship and is able to get the military to cooperate is a greater issue. I would like to be optimistic, and believe that the government of Pakistan can overcome the ongoing instability present throughout the country; however, I am not sure whether the West should expect Pakistan to establish a similar model to western liberal democracies. It is important for the international community to recognize that democracy does not grow instantly, and patience with Pakistan will be key to the survival of the country.

In fact, Turkey might present itself as a counterpart that Pakistan could mimic. To this day, Turkey is still struggling to decrease the powers of the military, and is
still attempting to reform its constitution to fit the EU membership requirements.

Turkey is an example of an Islamic leaning democracy that has been able to maintain relative stability since the fall of the PKK, and on March 22, 2010, “members of Parliament from Turkey’s religious conservative governing party proposed constitutional changes on Monday that would make it harder to ban political parties and easier to prosecute military officials in civilian courts.”212 The reason I address the situation in Turkey today is because it stresses the importance of patience and time, and also provides optimism for the potential future of Pakistan. It has been eleven years now since the fall of the PKK and the beginning of Turkey’s candidacy to join the EU. Although the Turkish state still does not fit all of the requirements for membership, it has made tremendous strides in attempting to liberalize their policies. We must bear this in mind when pushing democracy in Pakistan; and we cannot expect it to change its political traditions in a short amount of time.

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Conclusion: The Hidden Costs of U.S. Counterinsurgency Strategy

So far in this thesis I have studied the possible costs of counterinsurgency on democracy and the rule of law, and have analyzed ways these costs could have been minimized in my case studies. I believe I have answered the first question I posed in my introduction: ‘What are the costs of counterinsurgency on democracy and a government’s ability to uphold the rule of law?’ My study was based upon an analysis of U.S. counterinsurgency theory in the *U.S. Army/Marine Corps Counterinsurgency Field Manual* and other political and legal theories dealing with the proper form of action a constitutional democracy should take when faced with a crisis. In addition, I used two case studies: Peru and the war with the *Sendero Luminoso* and Turkey and the war with the PKK. These allowed me to draw conclusions about the practice of counterinsurgency and its costs on democracy and the rule of law. I then used these lessons to apply to current-day Pakistan and its war with the Pakistani Taliban. It goes without saying that these lessons are specific to my case studies in Peru and Turkey, and I am by no means claiming that they are the only possible costs of counterinsurgency.
However, I have yet to address the second question posed in my introduction: How can U.S. counterinsurgency policy be improved so as to minimize these costs in Pakistan today? In addition, I have not fully addressed why it is important for the U.S. to minimize these costs. These will be the focus of this concluding chapter.

**Reforming U.S. Counterinsurgency Strategy to Minimize the Costs on Democracy and the Rule of Law in Pakistan**

As I explained in Chapter 1, the *U.S. Army/Marine Corps Field Manual* was written with the war in Iraq and Afghanistan in mind, and can be seen as a manual to benevolent occupation. The situation in Pakistan’s Tribal Belt is different from that of Iraq and Afghanistan in that it is not an area that the U.S. has invaded forcefully through war but rather has entered with the consent of the Pakistani government. Governmental institutions, albeit weak, are already present and established in Pakistan. As I already quoted in the first chapter: “establishing the rule of law is a key goal and end state in COIN.”¹ In Pakistan, however, it is not up to the U.S. Army to establish the rule of law, but rather it is the Pakistani government’s role to preserve and uphold it while fighting the Taliban in the FATA. The support of foreign actors in helping the government uphold the rule of law should, in my opinion, be encouraged. However, this support should not undermine the sovereignty of the Pakistani government. There is a lot of discussion nowadays in newspapers and journal articles about Pakistan’s conflicted goals in the war on terror. Perhaps the United States should respect Pakistan’s domestic interests and find compromises with our own interests.

I would like to revisit the criticism of the *Counterinsurgency Field Manual* I outlined in Chapter 1. First, I claimed that the *Manual* should draw from experiences such as Peru and Turkey because these are examples of new or partial and fragile democracies that faced an internal conflict. Pakistan is similar to Peru in that it is a new and fragile democracy faced with the primarily ideologically driven Pakistani Taliban insurgency. Pakistan is also similar to Turkey in its history of ethnic tensions and the strong involvement of the military in politics. As I explored in Chapter 4, both case studies provided parallels with Pakistan, and I showed there were many lessons to apply to the situation in Pakistan. I believe our *Counterinsurgency Field Manual* should incorporate a section addressing a situation in which the U.S. Army and Marine Corps are given the consent to enter a country specifically to help fight an insurgency group, but are not really considered an occupying power over the central government. This section should emphasize the importance of aligning our interests with those of the host nation, while emphasizing the sovereignty of the host nation as being a priority.

Second, I mentioned that the *Manual* adopts a constructivist view of identities as being malleable. Although the case of Peru can support the idea that society can be seen as divided along ideational lines, and that it is possible to sway people to change their opinion by winning their hearts and minds, the case of Turkey serves as a counter to this argument. In Turkey, most of the Kurds who sided with the PKK did so because of their shared culture and ethnic identity, and not for ideological reasons. Even though the Turkish government did not attempt to provide social policies to win over the approval of the Kurds in the southeast region in order to weaken the PKK's
support base, the ethnic tensions between the Turks and the Kurds were so strong that a winning the hearts and minds strategy would have been insufficient. Ethno-nationalist movements that demand self-determination are based upon the idea that they can survive independently from the central government. The provision of social policies through a hearts and mind strategy could be perceived as patronizing and intensify the reasons for insurgency.

The Manual should have a section discussing the proper counterinsurgency strategies when faced with an ethno-nationalist insurgency. These strategies must acknowledge the existing ethnic tensions, and take measures to avoid exacerbating them. Perhaps, in such a situation, increasing the political dialogue between the governmental representatives of the region could be an acceptable approach. In addition, it is important to avoid associating all aspects of a particular ethnicity to the insurgency. Pakistan is a particularly interesting situation where the Taliban insurgency is both ideological, based on a strict interpretation of Sharia, and ethno-nationalist based on the common Pashtun ethnicity in the FATA. I suggest that, in this situation, a winning the hearts and minds strategy be delegated to government representatives of the FATA granting them autonomy in the war on terror. However, these representatives must be accountable to the central government and the military to ensure the proper distribution of the resources for social policies. In addition, local militia should be set up. The U.S., however, should learn from the experience in Turkey and respect the possibility that some civilians would prefer to remain neutral and these should not be viewed as enemies.
Third, because the *Manual* adopts a ‘people’s war’ model, it assumes that if you dissolve the insurgency, the population will necessarily side with the central government. In the FATA, communities are organized along tribal lines, and most of the population may not have any direct contact with the government or insurgent. Rather, tribal leaders are the ones who directly communicate with representatives of the central government or with the insurgents. These leaders may have interests that are not directly in line with that of every individual within the tribe. The *Manual* must acknowledge this issue and realize dissolving the insurgency may not be enough in such a situation. The *Manual* should address the possibility of using coercive bargaining with these leaders to convince them to side with the government.

Fourth, the *Manual* assumes insurgents have inherently illegitimate motives. Although I agree that the violent means insurgencies use to attain their goals are not legitimate, this does not mean that their goals are necessarily illegitimate. For example, the Kurds in Turkey had a legitimate demand of requesting greater recognition of their culture. Whether their goals to create a separate state from Turkey, or to incorporate their culture within the Turkish democracy undermined the legitimacy of the state is a different topic. The Pashtuns in the FATA have always been greatly independent from Islamabad, and the increasing presence of military troops in the region is intensifying ethnic tensions, and pushing many Pashtuns to side with their Taliban brethren. Their increasing demands for restoring their autonomy is justifiable. In addition, it is also debatable whether the Taliban presence in the FATA can be considered legitimate. In particular, many of the Taliban leaders in Pakistan are native to the Ghilzai confederation, and in a sense they have a claim to return to
their tribes. Moreover, they share similar tribal traditions and Sharia law with the local tribes in the FATA. That being said, due to the strong connections between the Taliban and al-Qaeda, in addition to wanting to overthrow the Pakistani government and wage a global Jihad against the West, I do not deem the broad goals of the Taliban to be legitimate. Nonetheless, I believe the Manual should have, at the very least, a disclaimer about the nature of insurgency as not necessarily being inherently bad.

The Manual also assumes that the interests of the host government are in line with those of the United States. For example, “President Obama’s declared aims for Pakistan and Afghanistan are limited and specific: to disrupt, dismantle and defeat al-Qaeda and the Taliban.” Pakistan’s main objective at the moment is avoiding greater instability in addition to its ongoing obsession with keeping an eye on threats from India. The government is not fully able to take on the strategies the U.S. would like it to adhere to because it fears greater conflicts and instability. In addition, the U.S. must also realize that, at the moment, the military and the ISI are still not under the authority of the civilian government. Moreover, the ISI has historical ties with the Taliban, and has an interest in wanting to protect them from being attacked. The presence of the Taliban in Pakistan also gives a reason for the military to have control over politics, and this is an incentive for the military to take their operations against the Taliban more lightly. As I already stated above, respecting Pakistan’s interests is of outmost importance to our counterinsurgency operations to establish a respectful, diplomatic, and long-lasting relationship with Islamabad. In the long run, this will

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2 Synnott, Transforming Pakistan: Ways out of Instability, 160.
establish greater trust and more effective participation on Pakistan’s part in the war on terror.

**WHY SHOULD THE UNITED STATES TAKE INTO ACCOUNT THE POSSIBLE COSTS OF COUNTERINSURGENCY ON DEMOCRACY AND THE RULE OF LAW IN PAKISTAN?**

First, it is in the best interest of the United States to restore its credibility *vis à vis* the international community. As I stated in my introduction, if we justify our wars along the lines of democracy and freedom, we must respect Pakistan’s sovereignty as a new democracy. We must encourage and allow Pakistan to find stability amidst its political institutions, and avoid imposing counterinsurgency operations that could undermine Pakistani law or exacerbate the existing instabilities. Failure to do so will increase the already strong disapproval of the United States, in particular from the Middle East. As President Obama claimed in his inaugural speech: “To the Muslim world, we seek a new way forward, based on mutual interest and mutual respect.”

Supporting Pakistan in establishing its democracy, and avoiding greater instability due to our counterinsurgency policies would support President Obama’s inauguration quote. To put it very simply, we must change our appearance from being the know-it-all bully in the playground, to just being seen as a true team player.

Second, ensuring the stability of Pakistan will be crucial for the geo-political situation in the Afghanistan-Pakistan-India region. If we do not maintain a decent, and friendly relationship with Pakistan, and the latter is not able to maintain a stable democratic government, the never ending rise of militant groups in its territory could

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lead one of them to take control of the government. Although this is an extreme case scenario, Pakistan could become a Jihadist state. This would “presumably come to power through some combination of violence and intimidation,” and “we would be left with an extremist-controlled Pakistan, infested with violence, and almost completely dysfunctional economy, harsh laws and even harsher methods for imposing them, and above all a nuclear-armed nation controlled by terrorist sympathizers.”

Democracy in Afghanistan would most likely not survive, and return to an authoritarian dictatorship, possibly under Taliban rule, and India will be faced with the threat of a Jihadist neighbor. It goes without saying that such a situation would pose itself as the greatest threat yet against the United States and its Western allies.

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